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April 25, 2006

JOHN C. HIGGINS

DEPOSITION OF

* Defendant

* Superintendent

* III, Assistant

* CHARLES E. HELLER,

* Defendant

* Superintendent,

* MICHAEL E. DOLECKI,

* Defendants

* SCHOOL BOARD,

* CRAWFORD CENTRAL

* SCHOOL DISTRICT

* CRAWFORD CENTRAL

* vs. 05-126E

* Plaintiff Case No.

* CLAUDETTE DE LEON,

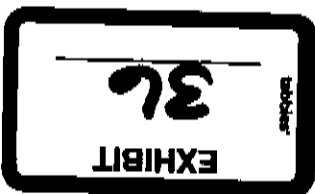
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OF PENNSYLVANIA

FOR THE WESTERN DISTRICT

U.S. DISTRICT COURT

COPY



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DEPOSITION

1
2 OF
3 JOHN C. HIGGINS, taken on behalf of the
4 Defendants herein, pursuant to the
5 Rules of Civil Procedure, taken before
6 me, the undersigned, Jacqueline L.
7 Hazlett, a Court Reporter and Notary
8 Public in and for the Commonwealth of
9 Pennsylvania, at Crawford Central
10 School District Administrative Offices,
11 11280 Mercer Pike, Meadville,
12 Pennsylvania, on Tuesday, April 25,
13 2006, beginning at 12:52 p.m.
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<p>Page 13</p> <p>1 Q And when were you hired as the 2 assistant principal with the Crawford 3 Central School District? 4 A I did an interim position 5 starting April of 2000, and I was hired 6 permanently that summer. It would have 7 been the beginning of my contract, July 8 1st, 2000. 9 Q For the 2000 to 2001 school 10 year? 11 A Yes. 12 Q And prior to April of 2000, what 13 was your position? 14 A I taught art education, 15 specifically ceramics, to seventh, 16 eighth and ninth graders until the 17 buildings were combined, then I went to 18 seventh and eighth grade. I briefly 19 taught at the high school in '93 for a 20 semester. 21 Q Did you have any teaching 22 experience prior to that time? 23 A Before '93? 24 Q Yes. 25 A No, I did not.</p>	<p>Page 11</p> <p>1 when I ask you a question, please make 2 sure that I'm finished with my question 3 before you answer me. Similarly with 4 Mr. Nichols. Make sure he's finished 5 asking the question before you answer 6 the question. 7 If you take a pause, it gives 8 either attorney an opportunity to 9 object if that is the case, or it also 10 gives you an opportunity to make sure 11 you understand the question before you 12 answer it. If you don't understand the 13 question, please let me know or let Mr. 14 Nichols know, and it can be rephrased 15 or repeated, depending upon the 16 circumstances. 17 Also, if at any time you 18 want to take a break either to speak 19 with me, or to stretch your legs, get a 20 drink, whatever you need, let me know 21 and we can accommodate that. 22 A Okay. 23 Q Okay. For the record, would you 24 briefly explain your educational 25 background?</p>
<p>Page 12</p> <p>1 A Yes. I hold a Bachelor's of 2 Education in Art Education, and a 3 Master's of Education in Secondary 4 Administration. 5 Q When did you receive your 6 college degree? 7 A I think I received the 8 Bachelor's in '93, my undergraduate. 9 Q From where? 10 A From Edinboro University. 11 Q And what about your Master's? 12 A I received my Master's in 13 December of '99. 14 Q And I'm assuming you have a 15 certification for secondary education 16 or administration? 17 A Yes, I do. 18 Q Do you have any other 19 certifications or other degrees? 20 A No, I do not. 21 Q When did you receive your 22 certification for secondary 23 administration? 24 A It would have been December of 25 '99.</p>	<p>Page 10</p> <p>1 P R O C E E D I N G S 2 3 JOHN C. HIGGINS, HAVING FIRST BEEN DULY 4 SWORN, TESTIFIED AS FOLLOWS: 5 6 EXAMINATION 7 BY ATTORNEY HEATH: 8 Q Mr. Higgins, have you ever had 9 your deposition taken before? 10 A Yes. 11 Q How long ago was that? 12 A In regard to this situation? 13 Q Anytime. 14 A Two to three years ago. 15 Q And I just wanted --- the reason 16 I'm asking is I simply want to go over 17 some ground rules for you. Obviously, 18 you're under oath. And because we have 19 a Court Reporter here, there's going to 20 be a transcript of the proceedings here 21 today. And she's going to take down 22 everything that anyone in this room 23 says. Because we want a clear record, 24 it is important that only one person 25 speak at a time, so I would ask that</p>

<p>1 Leon and Mr. Deshner?</p> <p>2 A Yes.</p> <p>3 Q And what do you recall about</p> <p>4 that? Do you recall when you knew,</p> <p>5 first of all?</p> <p>6 A Sometime in that year, that</p> <p>7 first year I was there, that, you know,</p> <p>8 there was a tension. I had heard of</p> <p>9 the past, and there was a past there.</p> <p>10 There were problems, there were</p> <p>11 grievances filed, along those lines. I</p> <p>12 mean, working in the same office, you</p> <p>13 know, you would hear that.</p> <p>14 Q Was there any discussion with</p> <p>15 you that they wanted to have someone</p> <p>16 who had a clean slate step in ---</p> <p>17 A Yeah.</p> <p>18 Q --- taking observation?</p> <p>19 A Take an unbiased look and to</p> <p>20 work with Ms. de Leon. And that's what</p> <p>21 I did.</p> <p>22 Q Just in general, what is the</p> <p>23 purpose of evaluating a teacher? What</p> <p>24 typically ---?</p> <p>25 Improving --- I'm sorry.</p>	<p>1 --- come in, you know, with a fresh set</p> <p>2 of eyes and was unbiased in any way.</p> <p>3 Q Will you excuse me for one</p> <p>4 moment? I'm sorry.</p> <p>5 A Absolutely.</p> <p>6 ATTORNEY HEATH:</p> <p>7 Off the record.</p> <p>8 OFF RECORD DISCUSSION</p> <p>9 BY ATTORNEY HEATH:</p> <p>10 Q Okay. I was asking when you</p> <p>11 came on board if you had any</p> <p>12 supervisory responsibility over Ms. de</p> <p>13 Leon.</p> <p>14 A Yes. I was one of the people</p> <p>15 that observed her throughout the school</p> <p>16 year.</p> <p>17 Q And prior to that time, had you</p> <p>18 met her? Had you had any dealings with</p> <p>19 her?</p> <p>20 A No. I was at what we call the</p> <p>21 old junior high. And then when I did</p> <p>22 come to the high school, I was in the</p> <p>23 middle school, and they're basically</p> <p>24 attached buildings, but they're</p> <p>25 separate. And I really didn't have any</p>
<p>1 Q And 1993 ---</p> <p>2 A I had a student teaching</p> <p>3 experience, but I did not have any</p> <p>4 professional teaching experience.</p> <p>5 Q Okay. And in 1993, you came</p> <p>6 right to this District?</p> <p>7 A Yes.</p> <p>8 Q And does your administrative</p> <p>9 certification permit you to observe and</p> <p>10 evaluate teachers?</p> <p>11 A Yes, it does.</p> <p>12 Q And is that part of your</p> <p>13 responsibility as an assistant</p> <p>14 principal?</p> <p>15 A Yes, it is.</p> <p>16 Q And was that part of your</p> <p>17 responsibility for the 2000 to 2001,</p> <p>18 2001 to 2002 school years?</p> <p>19 A Yes, it was.</p> <p>20 Q Were you given any supervisory</p> <p>21 responsibility over Ms. de Leon after</p> <p>22 you came on board?</p> <p>23 A Yeah, I was to observe her. I</p> <p>24 guess they wanted someone that, you</p> <p>25 know, was new coming in that did not</p>	<p>1 dealings with her at all.</p> <p>2 Q And so did you have any</p> <p>3 preconceived notions about her when you</p> <p>4 started to observe her?</p> <p>5 A No.</p> <p>6 Q Was there ever any discussion</p> <p>7 about you observing her in place of Mr.</p> <p>8 Deshner?</p> <p>9 A I think the discussion was in</p> <p>10 place of the other assistant principal</p> <p>11 at the time was Mr. Morgan. He was</p> <p>12 there about a year before me. And</p> <p>13 since I was new, I mean, I would not</p> <p>14 have been the primary observer. I was</p> <p>15 kind of the primary observer, but I was</p> <p>16 observing in conjunction with Mr.</p> <p>17 Deshner.</p> <p>18 Q Okay. And that would be --- was</p> <p>19 that true for all the teachers that you</p> <p>20 had responsibility for eventually?</p> <p>21 A Yes, yes. They were divided up</p> <p>22 equally.</p> <p>23 Q And were you aware at some</p> <p>24 point, or did you become aware, that</p> <p>25 there was some tension between Ms. de</p>

1 professional employees. The second is
2 a job description. And that would be
3 --- it indicates Claudette McCracken,
4 and it is the 1998 school year. And
5 then also Number Three would be the
6 philosophy and rationale of the
7 Crawford Central evaluation instrument.
8 Essentially, with regard to Exhibits 1
9 and 2, which would be the policy itself
10 and the job description, are those
11 interrelated and taken into
12 consideration in an evaluation/
13 observation of a teacher?
14 A: Yes.
15 Q: And does the policy then
16 identify any objectives of a district
17 evaluation?
18 A: Could you please repeat the
19 question?
20 Q: Does the policy identify the
21 objectives of the District evaluation?
22 A: Yes, it does.
23 Q: And that would be on what page?
24 A: Are you talking about the
25 evaluation of professional employees,

1 Q: Go ahead.
2 A: Are you finished?
3 Q: Yes.
4 A: To improve the educational
5 delivery in the classroom. If, you
6 know, there are weaknesses, then we can
7 work proactively with the teacher on a
8 professional level to improve what
9 needs to be improved. For evaluation
10 purposes.
11 Q: And there's specific criteria
12 that you rely upon in your evaluation
13 form relative to observing and
14 evaluating a teacher's performance?
15 A: Yes.
16 Q: And are those criteria listed in
17 your evaluation form?
18 A: Yes. They are on the evaluation
19 form and on the observation form.
20 Q: And are there also --- are the
21 criteria essentially referenced in any
22 policies?
23 A: Yes. They can be found in the
24 rationale for the philosophy and
25 rationale of Crawford Central

1 policy 412?
2 Q: Yes.
3 A: Right down, it says the
4 objective of the District evaluation is
5 to identify and improve, suggest ways
6 to improve and what the evaluation plan
7 should be. It should be uniform
8 throughout the District, a minimum
9 number of times a teacher should be
10 evaluated. There should be procedures
11 in place for identifying and commending
12 effective performance, assessing duties
13 and responsibilities, along those
14 lines.
15 Q: And then with regard to Exhibit
16 3, which is the philosophy and
17 rationale of the Crawford Central
18 School District. Does this also
19 address --- or what does this address,
20 I should ask you?
21 A: This addresses, you know,
22 basically, in a nutshell, the reasoning
23 for having an evaluation plan for
24 teachers or, you know, procedures in
25 place. And the bottom line is for the

1 evaluation instrument.
2 Q: And is there also a policy 412
3 concerning the evaluation of
4 professional employees?
5 A: Yes, there is. It's a template.
6 The development of an evaluation plan
7 or assessment for professional staff.
8 Q: And what about a teacher's job
9 description? Is that taken into
10 consideration, as well?
11 A: Yes. There are components in
12 there that correlate with the
13 professional evaluation instrument,
14 specifically with the performance
15 responsibilities. It also states
16 qualifications that a teacher must have
17 in order to be a teacher.
18 (Higgins Exhibits 1, 2
19 and 3 marked for
20 identification.)
21 BY ATTORNEY HEATH:
22 Q: I'm going to direct you
23 attention to exhibits that have been
24 previously marked as Higgins 1, 2 and
25 3. One is the evaluation of

<p>Page 24</p> <p>1 education; is that correct?</p> <p>2 A: Yes.</p> <p>3 Q: And how does the administration</p> <p>4 --- what is the philosophy that you are</p> <p>5 aware of concerning improvement plans?</p> <p>6 How is that an effective tool, in your</p> <p>7 opinion, in assisting a teacher?</p> <p>8 A: It improves instruction in the</p> <p>9 classroom. If there are weaknesses,</p> <p>10 you know, present, you know, you can</p> <p>11 work proactively with the teacher to</p> <p>12 improve those weaknesses.</p> <p>13 Q: And have you implemented</p> <p>14 performance plans with other teachers</p> <p>15 other than Ms. de Leon?</p> <p>16 A: Yes, I have.</p> <p>17 Q: And have you found those tools</p> <p>18 to be effective in improving their</p> <p>19 performance?</p> <p>20 A: Yes.</p> <p>21 Q: And how does the system work?</p> <p>22 You have the plan, and is there some</p> <p>23 sort of a monitoring system in place?</p> <p>24 A: Yeah. It's constructed, you</p> <p>25 know, for the teacher and then worked</p>	<p>Page 22</p> <p>1 students. We want the best education</p> <p>2 for the students of Crawford Central</p> <p>3 School District. And in order to do</p> <p>4 that, we need to have things in place</p> <p>5 to ensure that they receive that</p> <p>6 education.</p> <p>7 Q: And looking at the last page,</p> <p>8 which is page eight of Exhibit 3, it</p> <p>9 indicates that it was revised 10/22/79</p> <p>10 and reviewed February of 1983. And is</p> <p>11 this still utilized today, this</p> <p>12 philosophy and rationale?</p> <p>13 A: Yes.</p> <p>14 Q: So it's fair to say that this</p> <p>15 has been in use for some time. And you</p> <p>16 believe that this is a valuable tool in</p> <p>17 evaluating teachers?</p> <p>18 A: Yes. It was used in conjunction</p> <p>19 in development of an action plan.</p> <p>20 Q: And is this what you relied upon</p> <p>21 in preparing Ms. de Leon's action plan?</p> <p>22 A: Actually, I was assisted by Mr.</p> <p>23 Deshner at the time.</p> <p>24 Q: But this rationale sets forth</p> <p>25 procedures, the process on how to</p>
<p>Page 23</p> <p>1 improve professional employee</p> <p>2 performance at pages seven and eight.</p> <p>3 So even in this rationale that was</p> <p>4 adopted some time prior to 1979, it</p> <p>5 takes into account utilizing an action</p> <p>6 plan as a tool for improving</p> <p>7 performance; correct?</p> <p>8 A: Yes.</p> <p>9 Q: And since you have been the</p> <p>10 assistant principal at the District,</p> <p>11 have you utilized these three tools in</p> <p>12 order to do your teacher observations</p> <p>13 and evaluations?</p> <p>14 A: Yes, I have.</p> <p>15 Q: And do you believe that you have</p> <p>16 done this uniformly and applied the</p> <p>17 procedures fairly across the board?</p> <p>18 A: Yes, I have.</p> <p>19 Q: And that would include your</p> <p>20 observations and evaluations of Ms. de</p> <p>21 Leon?</p> <p>22 A: Yes.</p> <p>23 Q: You indicated that the primary</p> <p>24 purpose or goal to be achieved would be</p> <p>25 the highest quality of student</p>	<p>Page 25</p> <p>1 on with the teacher. And certain</p> <p>2 points are agreed upon and met and</p> <p>3 followed through with.</p> <p>4 Q: And I'm going to ask you just an</p> <p>5 overall question. The improvement plan</p> <p>6 under which Ms. de Leon operated, did</p> <p>7 she meet those objectives that were</p> <p>8 outlined in those plans?</p> <p>9 A: Not all of them, no.</p> <p>10 Q: And in your experience with</p> <p>11 regard to other teachers that you've</p> <p>12 worked with under improvement plans,</p> <p>13 have they typically met those goals and</p> <p>14 objectives?</p> <p>15 A: Yes, they have.</p> <p>16 Q: Did you find your interaction or</p> <p>17 your experience with Ms. de Leon to be</p> <p>18 unusual?</p> <p>19 A: Very much so.</p> <p>20 (Higgins Exhibit 4 marked</p> <p>21 for identification.)</p> <p>22 BY ATTORNEY HEATH:</p> <p>23 Q: And we're going to get into the</p> <p>24 specifics a little bit. What I have</p> <p>25 done relative to your exhibits is gone</p>

<p>Page 27</p> <p>1 records that I have. 2 A. This is what I see in front of 3 me and this is what I recall at this 4 point in time. 5 Q. That you did have a meeting, as 6 is required, with her after this 7 observation --- 8 A. Yes. 9 Q. --- to review it? 10 A. Uh-huh (yes). 11 Q. And do you recall anything in 12 particular about that meeting? Did she 13 accept your recommendations at that 14 time, or ---? 15 A. Yes, she did. 16 (Higgins Exhibit 5 marked 17 for identification.) 18 BY ATTORNEY HEATH: 19 Q. Okay. The next exhibit is 20 Higgins Exhibit 5, which is a February 21 2nd, 2001 letter written by you to Ms. 22 de Leon. Do you recall this letter? 23 A. Yes, I do. 24 Q. What were the circumstances that 25 prompted you to write this letter?</p>	<p>Page 28</p> <p>1 through the file and tried to put 2 things as best I could in chronological 3 order. And then we'll go through the 4 series of exhibits and go from there. 5 The first would be Exhibit 4, which is 6 a January 18, 2001 classroom 7 observation. And I believe this was 8 the first classroom observation that 9 you did. It would have been your first 10 year there. And I don't know if you 11 are aware if there's anything earlier 12 in time, but this was the first one 13 that I found. 14 A. Okay. 15 Q. Is this consistent with your 16 recollection of when you first observed 17 Ms. de Leon? 18 A. Yes. 19 Q. And can you just tell us briefly 20 for the record what information is 21 contained here? 22 A. Yes. This is an observation of 23 one of Ms. de Leon's Spanish III 24 classes during fifth period. I have it 25 on there marked, it was the first visit</p>
<p>Page 29</p> <p>1 by myself to the classroom. It appears 2 to me it would have been first 3 semester. And during this observation, 4 it was a pretty good class. I had a 5 few recommendations. I cite that, you 6 know --- I tell her or suggest to her 7 to be sure to maintain consistency in 8 dealing with students. If you insist 9 that a student have a pass due to 10 tardiness, then all students should 11 have passes. Another recommendation, 12 be sure to call on students to actively 13 participate, and you can randomly 14 choose students to answer questions, or 15 offer participation points as 16 incentives. I also put a commendation. 17 I felt her record keeping at that time 18 and her documentation of student work 19 was commendable. 20 Q. So under the comments and 21 recommendations section, R then would 22 be recommendations, C would be 23 commendation? 24 A. Yes. 25 Q. In looking at the body of the</p>	<p>Page 26</p> <p>1 instrument, I see within the 2 parentheses to the left there are 3 mostly S's, which would be 4 satisfactory; is that right? 5 A. Yes. 6 Q. And then there is one not 7 applicable. And then the asterisk, 8 that would be then to see the written 9 comments? 10 A. Yes. 11 Q. And that's what you've read into 12 the record so far? 13 A. Right. 14 Q. Now, after you did this 15 observation, did you speak with Ms. de 16 Leon --- 17 A. Yes. 18 Q. --- about the observation? 19 A. Yes. We met --- 20 Q. And would that be your first 21 meeting with her, or would there have 22 been --- do you recall anything prior? 23 I'm not trying to trick you. I am --- 24 A. No. 25 Q. --- just going through the</p>

<p>Page 30</p> <p>1 A Let me read it real quick just 2 to --- 3 Q Sure. 4 A --- check through it. What had 5 happened, Mrs. de Leon had taken ill 6 that day and she left due to an illness 7 or something along those lines. In 8 most cases, being my first year, as 9 teachers became ill during the day, 10 they would call the office and let the 11 administration know so we can assure 12 that their students were covered. To 13 this day, I mean, teachers do get sick, 14 but they always call the administrative 15 office. Mrs. de Leon did not. 16 Q What happened? What did she do? 17 A She told the teacher, I think 18 across the hall that she had to leave. 19 She stopped in to see my secretary 20 briefly, none of us. She said she was 21 leaving and --- 22 Q None of the administration? 23 A None of the administration. And 24 she left. And I did not know that 25 until I went up --- I think I went up</p>	<p>Page 31</p> <p>1 to her room to get a student, or I 2 called up. I can't remember what the 3 reason was for me arriving at the room. 4 When I got there, there was no teacher. 5 Q But the students were in the 6 class? 7 A Students were in the class. 8 They weren't being disruptive. They 9 were sitting on desks. The TV was on. 10 Q And there was no teacher? 11 A There was no supervision. And 12 Mrs. Maziarz from across the hall came 13 over and said, oh, I'm watching the 14 class. And I said, well, where's Mrs. 15 de Leon? And she informed me that she 16 had to leave. She didn't inform 17 anybody. Mrs. Maziarz informed me 18 that, you know --- she said, I was 19 taking care of the class. But from my 20 reasoning, you know, we must be aware 21 so we can get supervision for the 22 students. I mean, if we need to, we'll 23 call the sub service. I mean, I've 24 done it before. I've done it for Mrs. 25 de Leon before, after this fact. And</p>
<p>Page 32</p> <p>1 It's not a problem. And no one knew 2 where Mrs. de Leon was except for Mrs. 3 Maziarz. 4 Q And did the District have 5 concerns, too, about potential 6 liability for unsupervised students? 7 A Yes. There is a chance there. 8 I mean, it's a safety issue. I know 9 the kids were behaving themselves, but 10 you know, what if something did happen, 11 you know, and there is no supervision? 12 So we do have --- 13 Q The kids could have left? 14 A Kids could have left. They 15 could have been anywhere in the 16 building. I mean, they weren't 17 supervised the entire time. 18 Q And was this something that you 19 --- in your teaching experience, would 20 you have just left without telling an 21 administrator? 22 A No. I would have stopped in and 23 told an administrator that I had to 24 leave, or made a phone call. 25 Q And since this time, which would</p>	<p>Page 33</p> <p>1 the February 22nd, 2001, has any other 2 teacher acted in a similar manner? 3 A Not that I'm aware of, no. 4 Q And other teachers would follow 5 the protocol and notify an 6 administrator --- 7 A Yes. 8 Q --- if they were leaving the 9 building? 10 A Yes. Always. 11 Q Were you aware that the 12 Plaintiff received a satisfactory 13 evaluation for the 2000/2001 school 14 year accompanied by a corrective action 15 plan? 16 A Yes, I was aware of that. 17 (Higgins Exhibit 6 marked 18 for identification.) 19 BY ATTORNEY HEATH: 20 Q And I'll show you now what's 21 been marked as Higgins Exhibit 6. And 22 for the record, it is an evaluation for 23 the 2000/2001 school year dated May 24 7th, 2001, and attached thereto is a 25 corrective action plan with areas of</p>

1 concern and then, essentially, other
2 information on tricks of the trade, so
3 to speak, as to how to improve, and
4 routines, managing tips, guidelines,
5 and other information. Were you at all
6 involved in preparing the corrective
7 action plan?
8 A: Yes. I worked with George
9 Deshner in regard to creating the
10 action plan. I had some points, you
11 know, I felt that needed to be improved
12 upon that would improve the classroom
13 management. And I felt there was an
14 issue of consistency in the classroom
15 at that point in time.
16 Q: And I just wanted to direct your
17 attention, although the overall
18 evaluation is satisfactory, I note that
19 there are three areas out of the
20 criteria where she's received an
21 unsatisfactory for that particular
22 portion. Did you have any input at all
23 in this evaluation?
24 A: Yes, I did.
25 Q: And what was that input?

1 A: Probably in teacher/student
2 interaction, student relationship. You
3 know, there was some discipline
4 problems I was seeing in the classroom
5 that were out of the normal, I mean,
6 that kind of blew up to where they
7 didn't need to be, you know, at a
8 disruptive level, students that weren't
9 necessarily discipline problems that
10 were being problems for Mrs. de Leon in
11 the classroom, parent phone calls.
12 Q: To you?
13 A: Yes.
14 Q: About?
15 A: Lost homework. Mrs. de Leon has
16 given my son detention, you know. Just
17 things that yes, I've heard in the
18 past, but more so with Mrs. de Leon than
19 other teachers in the building.
20 Q: And that caused you some
21 concern?
22 A: Yes.
23 Q: Anything else that you recall?
24 A: At this time, no.
25 Q: And you said you helped Mr.

1 Deshner prepare this action plan?
2 A: Yes.
3 Q: And what was the purpose of this
4 action plan?
5 A: To improve some of the problems
6 we were seeing in Mrs. de Leon's
7 classroom to help her, you know, be a
8 better educator in order for the
9 students to receive better education.
10 Q: And I note even under areas of
11 concern, there are proposed tools for
12 her to do, things to, I guess, improve
13 her performance, such as observe. She
14 should observe different teachers who
15 have well-established classroom
16 procedures and effective discipline.
17 Was that something that you believed
18 would be helpful to her?
19 A: Yes. I felt, you know, some of
20 these teachers that we felt had solid
21 classroom management skills, you know,
22 solid plans in place that worked with
23 kids, the class went really smoothly,
24 and we felt that Mrs. de Leon could
25 benefit from observing those teachers

<p>Page 38 - Page 41</p> <p>25 Q--- September 20th of 2001. Can 24 A September 20th. 23 actually, it's --- 22 September 24th --- or, I'm sorry, 21 an observation report signed by you on 20 marked as Higgins Exhibit 7, which is 19 Q Let me show you what's been 18 BY ATTORNEY HEATH: 17 for identification.) 16 (Higgins Exhibit 7 marked 15 A Yes. 14 year? 13 Ms. de Leon in the 2001 to 2002 school 12 corrective action plan in supervising 11 Q And did you utilize this 10 A Yes. 9 positive tool? 8 Q And did you feel that this was a 7 A Absolutely not. 6 punishment to her? 5 was it meant to be any kind of a 4 Q Was this corrective action plan, 3 too. 2 A We were addressing discipline, 1 Q And was this ---?</p> <p>Page 39</p>	<p>25 Q And how did she react? Was she 24 A Yes, it was. 23 the bottom there? 22 Q And that was her signature at 21 observation. 20 four days later, to discuss the 19 A Yes. We met on September 24th, 18 with Ms. de Leon about the observation? 17 Q And did you have a conference 16 pleased with it. 15 A Yes. Yes, I was. I was very 14 there? 13 was following some of the directives in 12 observation? Did you think that she 11 were you pleased with this first 10 there's another signature there. And 9 Q And I can't see the other --- if 8 A Right. 7 be signed by Mr. Koznowski? 6 plan, although it's cut off, looks to 5 Q I see that the corrective action 4 with her and I believe two union reps. 3 A We sat down with her and met 2 Q--- and what it was meant to do? 1 A Yes.</p> <p>Page 41</p>
<p>25 right foot. 24 for the classroom to start off on the 23 kind of little tips, management tips, 22 ideas that were related here. Just 21 of related to some of the, you know, 20 Some of the things we were seeing kind 19 you know, for classroom management. 18 year. Some of the things were meant, 17 her at the start of the next school 16 it would be, you know, beneficial to 15 this information, actually, and I felt 14 A Yes. I came up with some of 13 the time? 12 you aware of all of this information at 11 guidelines and suggestions. And were 10 these contain a lot of information with 9 Q And then the subsequent pages, 8 administration. 7 dealing with parents, staff, 6 management techniques, discipline, 5 A Yes, relative to classroom 4 management techniques? 3 Q Relative to what, the classroom 2 her benefit in the classroom. 1 A Build and utilize resources to</p> <p>Page 38</p>	<p>25 plan and implementing it --- 24 with her about the corrective action 23 2001/2000 school year, did you speak 22 action plans prior to the start of the 21 Leon the evaluation and the corrective 20 Q And when you had given Ms. de 19 A Yes, it was. 18 of 2001? 17 than you had had previously in January 16 Q And was it a better observation 15 interaction among all her students. 14 methods that were used to stimulate 13 and used a variety of activities and 12 introduction, objectives and closure, 11 good planning in regards to your 10 The classroom presentation reflects 9 happy because it was a good lesson. 8 did have a commendation. And I was 7 areas I found to be satisfactory. I 6 Spanish II class I sat in on. All 5 '01/'02 school year, a fourth period 4 first visit to Mrs. de Leon in the 3 A Yes. That would have been my 2 on this date? 1 you summarize for us what you observed</p> <p>Page 40</p>

<p>Page 43</p> <p>1 For identification.) 2 BY ATTORNEY HEATH: 3 QI'll show you now what's been 4 marked as Higgins Exhibit 8, which is a 5 September 20th, 2001 letter, and then 6 there's an attachment, as well, of 7 several pages. And I'll ask you to 8 identify that for the record, please. 9 A:Yes. Oh, The September 20th, 10 '01? 11 Q:Yes. 12 A:Okay. It was part of the action 13 plan that Mrs. de Leon was required to 14 do. This is something I put together 15 to help her meet that requirement, make 16 it a little easier. What I did --- and 17 would you like me to go on to explain? 18 Q:Yes, please. 19 A:What I did here is I put this 20 packet together for Mrs. de Leon. In 21 her action plan, she was required to 22 observe some teachers, three different 23 teachers. And I felt it would be 24 easier for her if I gave her a list of 25 teachers that we had talked to, that</p>	<p>Page 44</p> <p>1 Mr. Deshner had talked to, and they 2 agreed to open up their rooms to Mrs. 3 de Leon. And along with that, I sent 4 their schedules to Mrs. de Leon to see 5 so she could --- easier for her to set 6 up the observation, make it easier for 7 her to set up an observation with the 8 teacher. 9 Q:And at the time when you'd 10 initially gone over the corrective 11 action plan, was Mrs. de Leon --- did 12 she agree to do this? 13 A:Yes. 14 Q:And I see on the second page of 15 this exhibit, you had talked to certain 16 teachers and they had all agreed to 17 observe their classrooms? 18 A:Yes, they did. 19 Q:And I see many of these were 20 union representatives, correct? 21 A:Yes. 22 Q:So in that regard, they had some 23 sort of a relationship with Ms. de 24 Leon --- 25 A:Right.</p>
<p>Page 45</p> <p>1 Q:--- from the past? 2 A:Right. 3 (Higgins Exhibit 9 marked 4 for identification.) 5 BY ATTORNEY HEATH: 6 Q:Exhibit 9 is a classroom 7 evaluation dated December 3rd of 2001 8 that I believe is signed by you. And I 9 apologize for the quality of the copy. 10 It may be a little bit hard to read. 11 But if you could try to read it, the 12 commendations and recommendations 13 section into the record, I'd appreciate 14 it. 15 A:Okay. This was an observation 16 done on December 3rd. This would have 17 been my second visit to Mrs. de Leon's 18 classroom. 19 Q:That year? 20 A:Yeah, for the '01 to '02 school 21 year. I believe all areas were 22 satisfactory. They appear to be. I'll 23 attest to that. I did have a 24 commendation and I did have a 25 recommendation. And I write, having</p>	<p>Page 46</p> <p>1 pleased that you were pleased? 2 A:Yeah. Yeah, she was, you know, 3 she was great. 4 Q:And then was Mr. Deshner 5 continuing to do observations that 6 year? 7 A:Yes, he was. 8 Q:And was Mr. Dolacki also doing 9 observations? 10 A:I believe he was in to do an 11 observation, yes. 12 Q:And was this sort of a team 13 approach? 14 A:Yeah, it was a team approach. 15 We kind of, you know, see some of the 16 issues from different angles, see if we 17 were seeing the same things to see if 18 things were improving. 19 Q:And what were you trying to 20 achieve by this team approach? 21 A:We were trying to get the 22 classroom management where it needed to 23 be, to improve relations between 24 students, parents and administration. 25 (Higgins Exhibit 8 marked</p>

<p>Page 46</p> <p>1 students write sentences on the board 2 is an effective teaching technique. 3 You do a very good job covering the 4 students' sentences on the board and 5 making the necessary corrections 6 followed by an explanation of the 7 correct usage. This technique could be 8 made more effective in bringing the 9 student to the board to make the 10 necessary corrections and verbally 11 prompting the student as needed. And I 12 met with Mrs. de Leon on December 6th 13 of 2001 to discuss the observation. 14 Q And was she receptive to what 15 you were saying? 16 A Yes, she was. 17 (Higgins Exhibit 10 18 marked for 19 identification.) 20 BY ATTORNEY HEATH: 21 Q Exhibit 10 is another report of 22 a classroom visitation or observation 23 summary from March 7th of 2002. And 24 that is --- essentially, I don't see 25 anything in my records between the</p>	<p>Page 47</p> <p>1 December visit and the March visit, and 2 I don't know off the top of my head if 3 anybody else visited her classroom. 4 But this would be your third visit that 5 year, is that correct? 6 A Correct. 7 Q And can you summarize the 8 information contained in this 9 observation? 10 A This is the March 7th, 2002 11 observation. This would have been my 12 third visit to Mrs. de Leon's classroom 13 in '01/'02 school year. 14 Q I note at the bottom here it 15 says she refused to sign. 16 A Correct. 17 Q And that would be Mrs. de Leon 18 refused to sign it? 19 A Yeah. And that's my 20 handwriting. 21 Q The two pages that are attached 22 to this observation, did you prepare 23 these two pages? 24 A Yes, I did. 25 Q And I see that there are eight</p>
<p>Page 48</p> <p>1 points on these two pages attached to 2 the observation? 3 A Yes. 4 Q Do those points then correspond 5 to the number on the first page? 6 A Yes, they do. 7 Q Can you please, for the record, 8 explain what is contained in this 9 observation? 10 A Okay. On the observation, I 11 have numbered one through eight, one 12 being the first point, planning 13 reflects lesson objectives and 14 activities. And that's where I started 15 with Mrs. de Leon to go over the 16 observation. I wrote, you show 17 consistency with the presentation of 18 your objectives. You always write the 19 objectives of the day's lesson on the 20 board and briefly cover the planned 21 activities. 22 Q That was a positive comment? 23 A And I saw that consistently all 24 three times I was in the classroom. 25 Second is a positive. I really liked</p>	<p>Page 49</p> <p>1 the approach you used to help one 2 student remember the Spanish terms on 3 the board. You suggested that he 4 create a rap song incorporating the 5 terms. I thought that was excellent. 6 And putting the Spanish terms to music 7 is an effective mnemonic device, which 8 is basically a memory device. Three -- 9 -- 10 Q And then three is under 11 instructional technique and 12 effectiveness? 13 A Yes. 14 Q And it would be under 15 introduction and motivation? 16 A Yes. 17 Q And it is improvement needed? 18 Is that what that means? 19 A Yes. Correct. Improvement 20 needed. 21 Q Well, what was that point on 22 number three? 23 A What happened was, when I came 24 into the class, the students were 25 noticeably upset. Well, I noticed that</p>

<p>Page 53</p> <p>1 do so. You know, take a few minutes 2 out and go over the rules with the 3 kids. Check homework at the beginning 4 of the period and tell students it will 5 be checked first thing the next class 6 period. Basically, what I meant by 7 that is keep an eye on the clock. You 8 know, if you're running out of time, 9 I'm saying to check and say, I'm 10 not going to get to it today. Let's go 11 ahead and bring it tomorrow. We'll do 12 it first at the beginning of the 13 period. 14 And finally, you know, I felt 15 the students got up on their own and 16 just left the classroom. The bell did 17 ring, but they weren't dismissed by the 18 teacher. And that's a form of control. 19 That's some of the things we were 20 looking at in her action plan, and I 21 felt that needed to be addressed. 22 Q And then moving along to number 23 six, where you say needs improvement 24 under teacher/student interaction, and 25 again, the consistency issue comes up?</p>	<p>Page 51</p> <p>1 watched the movie if ---? 2 A Could have watched the movie, 3 said, Mr. Higgins, we're watching a 4 movie today. Maybe this is a reward. 5 Maybe this is, you know, something 6 else. And I would have come back the 7 next day, you know. But it kind of 8 threw things off for the kids right off 9 the bat. 10 And four, I observed many 11 students throughout the lesson not 12 paying attention to Mrs. de Leon. Some 13 were drawing, others were writing notes 14 or just sitting there doing nothing at 15 all. And I felt that she needed to be 16 more aware of these students and 17 include them in the class. 18 Q What was she doing, ignoring 19 them? 20 A I think she was trying to teach, 21 but not really paying attention to what 22 they were doing. She was teaching but 23 not, you know, focusing on these 24 students that weren't participating. 25 Q And then number five would be</p>
<p>Page 52</p> <p>1 improvement needed relative to summary 2 and closure. 3 A Let me read this real quick. A 4 student attempts to interrupt Ms. de 5 Leon by asking aloud, are you going to 6 check homework today? I write, you 7 ignored him and you continued teaching, 8 which is fine. He then raises his hand 9 and you call on him. He asks again and 10 you say yes, but five minutes later, 11 some students started closing their 12 books while others get up to throw 13 paper and gum away without permission. 14 Mrs. de Leon stops teaching and begins 15 checking homework. The bell rings. 16 The students leave while she is still 17 checking the homework of a few 18 students. 19 I make some suggestions for 20 closing the lesson. First, make sure 21 students are aware of your classroom 22 rules. Students must raise hands 23 before being called on, come prepared, 24 et cetera. If you need to spend some 25 time reviewing rules of the class, then</p>	<p>Page 50</p> <p>1 Mrs. de Leon, when I came into the 2 classroom, changed her entire agenda 3 for the day because I was in the 4 classroom to observe. The students 5 were noticeably upset by, you know, the 6 change. And one student even asked if 7 it was because of myself that Mrs. de 8 Leon had changed, and she told the 9 students yes. She then started the 10 day's lesson. And I made a suggestion, 11 by changing your agenda, many students 12 become unmotivated to learn right from 13 the start of the day's lesson. 14 Further, some students came unprepared 15 in anticipation of watching a movie, 16 which was the initial agenda for the 17 day. And I don't have a problem with 18 that. I mean, I've even gone into 19 classrooms before where the teachers 20 say, look, we're going to test today, 21 or we're going to go a little bit off, 22 basically if you'd like to come back 23 tomorrow. And I've done that. I mean, 24 ---. 25 Q In other words, she could have</p>

<p>Page 55</p> <p>1 suggestion that I feel consistency in 2 working with students is key in good 3 classroom management. Students are 4 aware of what other students are doing 5 in the classroom and what the teacher 6 is doing in regard to how they are 7 disciplined. 8 Number seven would fall under 9 management and organization of the 10 classroom. And I felt improvement 11 needed, control and discipline for a 12 fairness sympathetic. I observed a 13 female student being very rude to Mrs. 14 de Leon and told her, you know, you're 15 blocking my view. Move out of the way. 16 Very harsh. I felt Mrs. de Leon, she 17 did not address the way the student 18 spoke to her, but instead, told her to 19 see her after class for being 20 unprepared. When the period was over, 21 the student left without meeting with 22 Mrs. de Leon. Mrs. de Leon failed to 23 remind the student to stay after. 24 Again, I cite consistency. I 25 feel consistency is key. First, make</p>	<p>Page 54</p> <p>1 A Yes. I observed her 2 disciplinary reprimand of a student at 3 the front of the room for not following 4 the lesson. The student angrily showed 5 Mrs. de Leon her paper, that she had 6 been writing notes from the board. 7 Another student at the back of the room 8 sat almost the entire period I observed 9 with no book or pencil, and his feet 10 propped up on a chair. I was like, you 11 know, she's not yelling at the kid, but 12 she reprimands them for not paying 13 attention. The kid actually was taking 14 notes and shows her the paper while 15 another kid was at the back not doing 16 anything. 17 Q And visibly not doing anything? 18 A They're visibly not doing 19 anything. When she finally did speak 20 to him, she mentioned that he needed to 21 be prepared, but in effect, rewarding 22 him by pairing him up with the student 23 sitting next to him. I observed that 24 he borrowed a pencil and began drawing 25 on his Trapper Keeper. And I make the</p>
<p>Page 57</p> <p>1 homework or doing an activity. I would 2 make it very clear that no passes will 3 be given during a lesson. 4 Q Okay. And you spoke with her 5 about those, I'm assuming, because 6 there's a conference date of March 12th 7 of '02 on the front page. 8 A Yes. 9 Q And then she refused to sign it. 10 Do you recall anything specifically 11 about this meeting of March 12th of 12 '02? 13 A You have to understand the 14 things that were going on, you know, 15 between the lessons. This wasn't the 16 only thing that, you know, was 17 happening. There was an increase in 18 parent phone calls. There was an 19 increase of kids coming into the office 20 stating that there was lost homework 21 or, you know, being treated unfairly. 22 And it was just starting to deteriorate. 23 was my observation. 24 Q So the first visit had been 25 pretty good and then ---?</p>	<p>Page 56</p> <p>1 sure to address the immediate problem. 2 In this case, the student should have 3 been made aware immediately that they 4 way she addressed you was unacceptable. 5 Second, you gave her a directive to 6 stay after class for being unprepared. 7 And I felt the other kids saw this 8 student leave without so much as a, you 9 know, sound, and they saw that she did 10 not follow Mrs. de Leon's directives. 11 I felt that was undermining Mrs. de 12 Leon's position as the authority in the 13 classroom. 14 Number eight falls under 15 management and organization, and 16 establishes and follows classroom 17 routines and procedures. I observed 18 that your lesson was interrupted on 19 three occasions by students wanting to 20 use the restroom. And basically, here, 21 I give a suggestion of establishing a 22 hall pass procedure where students are 23 limited to when they can ask for a hall 24 pass, for example, the first five 25 minutes of class when you're checking</p>

1 A. Yes. Her and Mr. Mehok left, 2 and I think they went up to her 3 classroom.
4 Q And at that point, what did you 5 do? What happened? I mean, how did 6 you react to Ms. de Leon's demeanor and 7 her behavior? Were you surprised or 8 did you ---?

9 A I don't think, you know, it was 10 totally a surprise. I mean, it was 11 unusual. I mean, it was bizarre. You 12 know, I've only been there a year or 13 two now, and I've never dealt with a 14 teacher that, you know, responded that 15 way to supervision. So yeah, I guess 16 it was kind of a shock.

17 Q And did you then discuss it with 18 Mr. Deshner and Mr. Heller about what 19 to do at that point?
20 A Yes. It was discussed, you 21 know, about what to do. You know, the 22 suggestions in the action plan, they 23 weren't being met and weren't being 24 followed. And I felt at the time that 25 an unsatisfactory rating was warranted

1 A Second visit was pretty good, 2 too. Not great, but you know, it was 3 pretty good, no problems. And then I 4 go in March 7th and, you know, it just 5 was a change. It was 180.
6 Q And this observation was done, 7 you said, in conjunction with the 8 increase of parent phone calls and 9 student complaints about losing 10 homework and that kind of thing?

11 A Correct.
12 Q And did you keep Mr. Deshner 13 apprised of all this other information, 14 as well?
15 A Yes, I did.

16 Q And so then relative to the 17 conference that was going to occur --- 18 or that did occur on March 12th, 2002, 19 do you recall who was present at that 20 conference or meeting?
21 A I believe it was Mr. Heller, Mr. 22 Mehok, Mrs. de Leon and myself. 23 Q What was the purpose of the 24 conference?
25 A The purpose of the conference

5 Q And what's your recollection of 6 what occurred on that date? Let me ask 7 you this. Did the meeting ever finish? 8 A No, it did not. Mrs. de Leon, 9 once I reached --- I thought it was 10 four or five but it might have been 11 more like question three or four, you 12 know, as soon as Mrs. de Leon started 13 to hear some negative aspects of what 14 was going on in the classroom, she 15 couldn't go on. She became very 16 negative, very upset, emotionally 17 distraught, and the meeting could not 18 continue and it was --- I mean, Mr. 19 Mehok was aware, Mr. Heller was aware 20 that, you know, it couldn't go on. She 21 said, I can't teach. I can't do this 22 anymore. I can't take this anymore, 23 you know, can't go on. And the meeting 24 ended right there.
25 Q Did she then walk out?

1 I was to cover my observation, 2 Q And were you going to address 3 the other issues as well?

4 A Yes.

5 Q And what's your recollection of 6 what occurred on that date? Let me ask 7 you this. Did the meeting ever finish? 8 A No, it did not. Mrs. de Leon, 9 once I reached --- I thought it was 10 four or five but it might have been 11 more like question three or four, you 12 know, as soon as Mrs. de Leon started 13 to hear some negative aspects of what 14 was going on in the classroom, she 15 couldn't go on. She became very 16 negative, very upset, emotionally 17 distraught, and the meeting could not 18 continue and it was --- I mean, Mr. 19 Mehok was aware, Mr. Heller was aware 20 that, you know, it couldn't go on. She 21 said, I can't teach. I can't do this 22 anymore. I can't take this anymore, 23 you know, can't go on. And the meeting 24 ended right there.
25 Q Did she then walk out?

1 at that point in time. 2 (Higgins Exhibit 11 3 marked for 4 identification.) 5 BY ATTORNEY HEATH: 6 Q And I'll show you what's been 7 marked as Exhibit 11, which is the 8 unsatisfactory rating dated March 18th, 9 2002. Before we talk about this 10 specifically, I want to ask you, are 11 you aware that this was the subject of 12 a grievance before Arbitrator Duff? 13 A Yes.

14 Q And that this was actually 15 overturned on procedural grounds; are 16 you aware of that? 17 A Yes.

18 Q Do you believe that the 19 unsatisfactory --- despite that 20 Decision, do you believe that it was 21 warranted? 22 A Yes, I do.

23 Q And can you address the areas in 24 which she received an unsatisfactory on 25 this instrument, please?

<p>Page 65</p> <p>1 Q Looking at the second page of 2 this evaluation, at the top, there is 3 an unsatisfactory in the first 4 category. What is that about? 5 A Okay. Here I stated, Mrs. de 6 Leon has continually ignored the action 7 plan given to her on June 8th, --- 8 2001. She agreed to this action 9 plan and all points found within. But 10 when we met with her about the plan, 11 she'd continually cite harassment 12 concerning the observations she agreed 13 to. 14 Basically, some of the 15 statements made as quoted by Mr. 16 Deshner, why am I on an action plan? 17 No one else in the District is on one 18 and no one else is observed as much as 19 I am. And I was also there when she 20 made those statements. 21 Q And just so the record is clear 22 in this regard, relative to the 23 observations, you were not the only one 24 doing the observations; were you? 25 A No, I was not. It was ---</p>	<p>Page 63</p> <p>1 administration regarding education 2 improvements. She continuously looks 3 down, looks away or down at the floor 4 when suggestions for improvement are 5 being made. 6 Attitude, unsatisfactory. I felt 7 poor attitude, you know, had been 8 consistently shown when meeting with 9 her on specific points. 10 Q You said that she argues, shares 11 at the administration, has emotional 12 outbursts? 13 A Correct. 14 Q And relative to other 15 observations, the first two that you 16 had had with her, you had indicated 17 that she seemed to be fairly receptive 18 because your evaluations were positive 19 in nature? 20 A Right. 21 Q So relative to this part of the 22 evaluation, you said that she's shown 23 poor attitude during meetings. Was 24 this something that you were referring 25 to the March 12th meeting specifically.</p>
<p>Page 64</p> <p>1 or is there anything else that you were 2 referring to? 3 A Yes. In the section of the 4 action plan, I felt her demeanor or her 5 feelings towards the administration, or 6 her demeanor towards the administration 7 was not professional. I mean, she 8 questioned it. She felt it wasn't 9 necessary, felt that we were picking on 10 her. 11 Q The action plan? 12 A In the action plan. So I mean, 13 from portal to portal, I mean, it 14 really hadn't improved, and it showed 15 in that final meeting with her. 16 Q So it's fair to say that 17 essentially, as long as you weren't 18 giving her any suggestions for 19 improvement, she was okay? 20 A Yeah, it appeared that way. 21 Q But as soon as any criticism or 22 any improvement was suggested, argues 23 that she can improve in were suggested, 24 she reacted negatively? 25 A She became very defensive, yes.</p>	<p>Page 62</p> <p>1 A Yes. She received an 2 unsatisfactory mark under professional 3 competency. And I so note, lack of 4 classroom control has affected the 5 learning process. Students are 6 sleeping in class, drawing pictures, 7 you know, walking around while 8 instruction is going on. And Mrs. de 9 Leon has been unable to implement 10 effective classroom management. 11 A Also under professional 12 competency, she received an 13 unsatisfactory mark for teacher/student 14 interaction. Mrs. de Leon, I felt, 15 lacked consistency when dealing with 16 matters of discipline in her classroom. 17 And some students were reprimanded for 18 specific behaviors in the class while 19 others exhibiting the same behaviors go 20 unattended. 21 She received an unsatisfactory 22 mark under personal characteristics and 23 traits. And I so noted that Mrs. de 24 Leon became argumentative and 25 derogatory when meeting with</p>

1 off for a period of time at the end of
2 that year. Were you aware of why?
3 A. Yes.
4 Q. Why was that?
5 A. Her doctor signed her out. And
6 what I recollect is she called in or
7 sent a note in with somebody stating
8 that a doctor recommended because of
9 depression that she take the time off.
10 I remember seeing the note. I think it
11 was between the 12th and 18th. But
12 then after that, I believe the District
13 moved for their own evaluation for Mrs.
14 de Leon before she was able to come
15 back to work.
16 Q. And then as far as you know, she
17 was cleared to return to work?
18 A. Correct.
19 Q. And she came back to work
20 approximately May 23rd of that year?
21 A. Okay.
22 Q. Prior to the year resuming then
23 --- the next school year would be the
24 2002/2003 school year. And prior to
25 the year resuming, did you assist in

1 glances at parents during parent
2 conferences, which caused parent
3 conferences to deteriorate rapidly.
4 Finally, professionalism, there
5 had been no evidence of professional
6 development or growth opportunity at
7 this time. And this was done by myself
8 and Mr. Deshner, and I have signed the
9 unsatisfactory mark.
10 Q. In reviewing that today, do you
11 believe that those comments were fair
12 and merited?
13 A. Yes.
14 Q. Were you aware that Ms. de Leon
15 was under a psychologist's care in
16 March of 2002?
17 A. I believe it was mentioned to me
18 either by Mrs. de Leon or somebody,
19 yes. I'd have to say that's valid.
20 Q. Do you remember if it was before
21 or after the March 12th meeting that
22 you became aware of that, if you
23 remember?
24 A. Possibly before. I can't really
25 say for sure. I can say I was aware.

1 Q. At any point after you became
2 aware that she was under a
3 psychologist's care, did you seek to
4 harass or discriminate against her on
5 that basis?
6 A. Absolutely not.
7 Q. Did you ever seek to harass or
8 discriminate against Mrs. de Leon, or
9 retaliate against her because she filed
10 grievances, or filed with the
11 Pennsylvania Human Relations
12 Commission?
13 A. Absolutely not.
14 Q. Did you ever seek to harass or
15 discriminate against Mrs. de Leon based
16 on her gender?
17 A. No.
18 Q. Did you ever seek to harass or
19 discriminate against Mrs. de Leon based
20 on her national origin?
21 A. No.
22 Q. Prior to the school year
23 resuming --- just so the record is
24 clear, I'm not getting into a lot of
25 the information, but Ms. de Leon was

1 Q. Other administrators were also
2 doing observations and having meetings
3 with her?
4 A. Correct.
5 Q. Okay. Go ahead.
6 A. Under D, maturity, all
7 professional staff should display
8 maturity. And it was felt Mrs. de Leon
9 was antagonistic to parents, students
10 and administration, and that this
11 behavior surfaces in the classroom, in
12 parent conferences, and administrative
13 meetings. And I felt, you know --- the
14 parents would see it and there would be
15 frustration on the parents' part in
16 dealing with the parents.
17 Dependability, Mrs. de Leon has
18 not sufficiently met areas of concern
19 outlined in her action plan.
20 Communication, I felt Mrs. de
21 Leon builds walls when communicating
22 with administration and parents. She
23 pays no attention to what an
24 administrator's saying by looking away,
25 looking at the floor and arguing. She

<p>Page 70 - Page 73</p> <p>25 four, and then four would be A through 24 objectives, which would be one through 23 it says that the goal of these first 22 Q And at the bottom of page two, 21 A Yes. 20 Follow; correct? 19 contains points that she's expected to 18 --- this whole plan, three pages, 17 basically, these have points that she 16 Q And on the third page, and 15 problems, dealing with parents, yes. 14 classroom, consistency, some behavioral 13 A Yeah. Management in the 12 discipline, consistency? 11 Q For example, classroom 10 A Yes. 9 addressed in prior years with her? 8 some recurring themes that had been 7 action plan, I mean, were there still 6 Q And contained in this corrective 5 in the classroom, discipline. 4 her classroom management, consistency 3 something in place that would improve 2 comments we made. We wanted to put 1 focused on those specifics, the</p> <p>Page 71</p>	<p>25 Q--- look at number two. Did you 24 A Sure. 23 three --- 22 Q Before you get to number 21 every step of the action plan --- 20 said. Three, Mrs. de Leon must follow 19 felt not focusing on what was being 18 notes of what was being said, and we 17 know, Mrs. de Leon would tend to take 16 not working on other materials, you 15 starting at the floor. What it means by 14 away, having emotional outbursts, and 13 working on other materials, looking 12 information being presented, not 11 willingness to concentrate on 10 staff. This would be evidenced by her 9 when meeting with administration and 8 must remain professional at all times 7 In two, we felt Mrs. de Leon 6 confrontational. 5 are making without becoming 4 listen to suggestions administrators 3 was Mrs. de Leon must be willing to 2 know, more successful in the classroom 1 necessary in order for her to be, you</p> <p>Page 72</p>
<p>25 characteristics and traits. And we 24 professional competency and personal 23 and we actually, you know, had the 22 work on. And so we focused on those, 21 the areas that we really wanted her to 20 evaluation, unsatisfactory evaluation, 19 the points that were pointed out in the 18 A Yes. I think this follows along 17 the 2001 to 2002 school year? 16 and the one we talked about earlier for 15 differences between this action plan 14 Q And are there areas of 13 '02 to '03 school year. 12 assisted in developing for the upcoming 11 A This is the action plan that I 10 it for the record, please. 9 as Exhibit 12 and ask you to identify 8 Q And I'll show you what's marked 7 BY ATTORNEY HEATH: 6 identification. 5 marked for 4 (Higgins Exhibit 12 3 A Yes. 2 the Plaintiff? 1 developing another improvement plan for</p> <p>Page 70</p>	<p>25 personal characteristics we felt was 24 she wouldn't listen. And one of the 23 get very emotional, and we felt that 22 de Leon, she would be argumentative, 21 A Basically, in meetings with Mrs. 20 summarize what's contained in here? 19 characteristics and traits, can you 18 on the last page, page three, personal 17 Q And looking at Roman numeral II 16 Yes. 15 A--- know and follow the rules? 14 Q Yes. 13 students --- 12 A Creating an environment in which 11 two. 10 Q At the bottom of the page, page 9 A Under number four? 8 you see where I am? 7 your classroom that lasts all year. Do 6 for respect and positive behavior in 5 perseverance, you can lay a foundation 4 impossible. With a little patience and 3 rules is challenging but not 2 which students know and follow the 1 I would be creating an environment in</p> <p>Page 72</p>

<p>Page 77</p> <p>1 Q But you're saying essentially 2 she's got to take care of it in her 3 classroom as the first measure? 4 A She's the first line of defense. 5 We felt more serious behavioral 6 offenses are to be reported directly to 7 administration. Just for example, you 8 know, fighting, profanity towards 9 staff, possession and use of tobacco 10 products, you know, et cetera. 11 Five, Mrs. de Leon should seek 12 out workshops, seminars and conferences 13 to address the areas of improvement 14 cited in the action plan and appendix 15 A. I think this one was by Mr. 16 Deshner. He felt that these would, you 17 know, be helpful if she were to get 18 involved with discipline in the 19 classroom, some of the conferences that 20 were available through the IU. 21 Administration will be available at any 22 time with reasonable notice to assist 23 her in all areas, professional 24 development, classroom management, and 25 effective communication.</p>	<p>Page 75</p> <p>1 need to listen to what Mr. Higgins is 2 trying to tell you. So he had to kind 3 of redirect her back, but that was kind 4 of --- after that, it just went 5 downhill. She became very emotional, 6 and that's when the meeting ended. So 7 that's why that's in there, or part of 8 the reason. 9 Q And then is she directed to 10 follow every step of the action plan in 11 number three? 12 A Yes. 13 Q And told up front that she would 14 be required to document her progress 15 and that she would be re-evaluated 16 within two weeks of the second marking 17 period? 18 A Yes. This was covered with Mrs. 19 de Leon. 20 Q And all of this information was 21 covered with her and gone over --- did 22 you go over it with her in a meeting? 23 A Yes. It was read to her. And I 24 believe one of the union reps was Mr. 25 Roznowski. Also, number four on the</p>
<p>Page 76</p> <p>1 personal characteristics and traits, we 2 felt, you know, some of the things that 3 would help Mrs. de Leon, communicate 4 either verbally or in writing to 5 parents of students exhibiting routine 6 behavioral problems in the classroom. 7 I mean, I felt this was 8 important because I felt sometimes --- 9 or felt maybe one of the reasons that, 10 you know, there were so many discipline 11 problems in that classroom was because 12 the parent wasn't being included or, 13 you know, the procedures weren't being 14 followed that she had in place. So we 15 felt that she should keep a log of the 16 date and time, contact made or a letter 17 sent to parents. We felt students who 18 continue to misbehave after classroom 19 management plan has been followed and 20 the parental contacts has been made are 21 to be referred to the administration. 22 I mean, there is a point where, once a 23 teacher reaches that with a student 24 that it should be in our ballpark, the 25 administrators' ballpark.</p>	<p>Page 74</p> <p>1 actually personally observe her doing 2 things such as having emotional 3 outbursts, looking at the floor, 4 looking away? 5 A Yes, I have seen the emotional 6 outbursts, you know, dealt with the 7 confrontation, and I watched her stare 8 at the floor. I mean, --- and not look 9 at the administrator. I saw it in a 10 meeting with Mr. Deshner. She wouldn't 11 look at him. 12 Q And back to that meeting on 13 March 12th of 2002, do you recall that 14 being an issue there, as well, with Mr. 15 --- before the outburst part with Mr. 16 Heller saying, are you aware of what 17 the administration is saying to you, or 18 words to that effect? 19 A Yes, yes. I remember him saying 20 that. She was being confrontational 21 with me once I started getting into 22 some the more negative comments or 23 aspects of the observation, and wanted 24 to argue. And Mr. Heller did remind 25 her that, you know, Mrs. de Leon, you</p>

<p>1 the record?</p> <p>2 A. This is part of the action plan.</p> <p>3 Q. Is this similar to what we</p> <p>4 looked at for the year before?</p> <p>5 A. Yes, very similar.</p> <p>6 Q. And this is relative to what</p> <p>7 issue?</p> <p>8 A. The action plan.</p> <p>9 Q. And doing what? What is she</p> <p>10 supposed to be doing?</p> <p>11 A. Under professional competency,</p> <p>12 she's supposed to be observing teacher</p> <p>13 classrooms every two weeks for the</p> <p>14 first six-week marking periods for a</p> <p>15 total of six observations that would be</p> <p>16 required at the end of the second</p> <p>17 marking period. And again, this is,</p> <p>18 you know, observe classroom management</p> <p>19 and strategies utilized in other</p> <p>20 classrooms. And we felt her doing the</p> <p>21 personal reflection of the class</p> <p>22 observed was something she could use as</p> <p>23 a reference.</p> <p>24 Q. And again, did you seek out</p> <p>25 teachers to open their classrooms to</p>	<p>1 Q. During this time frame, did Ms.</p> <p>2 de Leon come to you and ask you for</p> <p>3 your assistance concerning professional</p> <p>4 development or classroom management?</p> <p>5 Did she seek you out and try to have</p> <p>6 you help her, if you recall?</p> <p>7 A. You know, I do recall Mrs. de</p> <p>8 Leon stopping in to speak about some</p> <p>9 discipline problems in the classroom</p> <p>10 and asking about it, but I can't</p> <p>11 remember specific dates. But I do</p> <p>12 remember her stopping in.</p> <p>13 (Higgins Exhibit 13</p> <p>14 marked for</p> <p>15 identification.)</p> <p>16 BY ATTORNEY HEATH:</p> <p>17 Q. With regard to parent</p> <p>18 interaction and student discipline, the</p> <p>19 next exhibit I want to show you was a</p> <p>20 letter dated October (sic) 30th, 2002.</p> <p>21 And I'm assuming this is at the very</p> <p>22 beginning of the 2002 to 2003 school</p> <p>23 year, is that correct?</p> <p>24 A. Yes.</p> <p>25 Q. And can you identify this for</p>
<p>1 Q. What was the purpose of this</p> <p>2 corrective action plan?</p> <p>3 A. The purpose was to help her with</p> <p>4 those things that we felt that weren't</p> <p>5 working in her classroom in regards to</p> <p>6 discipline, classroom management,</p> <p>7 dealings with parents, student</p> <p>8 interaction ---</p> <p>9 Q. And was this ---</p> <p>10 A. --- to help her improve in the</p> <p>11 classroom.</p> <p>12 Q. --- corrective action plan</p> <p>13 implemented as a punishment relative to</p> <p>14 her filing a grievance concerning the</p> <p>15 unsatisfactory evaluation?</p> <p>16 A. Absolutely not.</p> <p>17 (Higgins Exhibit 14</p> <p>18 marked for</p> <p>19 identification.)</p> <p>20 BY ATTORNEY HEATH:</p> <p>21 Q. Looking at Exhibit 14, which is</p> <p>22 a classroom visitation observation</p> <p>23 summary dated September 11th, 2002, I</p> <p>24 note again this is signed by you, and</p> <p>25 there's a conference date of September</p>	<p>1 her and agree to allow themselves to be</p> <p>2 observed by her in order to help her in</p> <p>3 her performance?</p> <p>4 A. Yes, we did that. Mr. Deshner</p> <p>5 and myself called teachers to see if</p> <p>6 they'd open up their rooms to Mrs. de</p> <p>7 Leon. And the ones we called did. And</p> <p>8 again, I attached their schedules so it</p> <p>9 would make it easier for Mrs. de Leon</p> <p>10 to set up those appointments.</p> <p>11 Q. Towards the beginning of the</p> <p>12 2002/2003 school year, did you observe</p> <p>13 Mrs. de Leon?</p> <p>14 A. Yes.</p> <p>15 Q. And let me just ask you this,</p> <p>16 before we get into the observation that</p> <p>17 was done in September, relative to this</p> <p>18 corrective action plan, was its purpose</p> <p>19 to intimidate or harass Ms. de Leon in</p> <p>20 any way?</p> <p>21 A. No.</p> <p>22 Q. Was its purpose designed to trap</p> <p>23 her so that she would fall in her</p> <p>24 performance?</p> <p>25 A. Absolutely not.</p>

<p>Page 85</p> <p>1 I had a recommendation, a quite 2 simple one. One of the posted rules 3 stated, stay awake, sit up nice and 4 straight. I thought the rule could be 5 difficult to enforce consistently and 6 open up the teacher for debate with the 7 student if it were used. I suggested 8 changing the rule to be attentive. 9 This would be easier to define and not 10 give the student room to argue the 11 rule, which I'd seen in a previous 12 year's ---. 13 Q Be attentive? 14 A Be attentive, that you know, 15 students would argue with the teacher. 16 The overall observation was 17 satisfactory. 18 Q And just because I had the court 19 reporter pre-number the exhibits, the 20 ones that were incorrectly attached to 21 14, I just want you to take a look at 22 these three pages and see at least if 23 you can identify who they came from or 24 where they came from. 25 A I believe the one with the first</p>	<p>Page 83</p> <p>1 (Higgins Exhibit 15 2 marked for 3 identification.) 4 BY ATTORNEY HEATH: 5 Q So taking these apart then, --- 6 A And there's a --- 7 Q --- it would be Exhibit 15. The 8 first page of Exhibit 15 goes with 14; 9 is that what you're saying? 10 A Actually, it's just a one-page 11 attachment is all it was. 12 Q Okay. 13 A That doesn't go with it, either. 14 So it would just be these two. They go 15 to something. 16 Q Yes, and I wish I knew what it 17 was. Okay. Before we get to the --- 18 A Do you want to take a break? 19 Q --- observation ---. Yes, let's 20 take a break for a second. 21 SHORT BREAK TAKEN 22 ATTORNEY HEATH: 23 Okay. Back on the 24 record. 25 BY ATTORNEY HEATH:</p>
<p>Page 84</p> <p>1 Q At the top of Exhibit 14, there 2 was some confusion as to the attachment 3 that went with the observation of 4 9/11/02. And the attachment that we 5 have now on there is dated 9/13/02. 6 And that's correct, Mr. Higgins? 7 A Yes. 8 Q And you have a commendation and 9 a recommendation here. You said at the 10 beginning, you felt it was a very good 11 class? 12 A Yes. I was very happy with it, 13 a very good class. I state that Mrs. 14 de Leon is meeting all areas defined in 15 her action plan at this time. And I 16 felt that she showed good consistency 17 in regard to classroom management. For 18 example, a student was unprepared for 19 class. She gave them a warning and 20 reviewed the classroom rule with them. 21 And I felt that not only reinforced 22 what was to be expected of the student, 23 but also let other students know that 24 she was not going to tolerate that type 25 of behavior.</p>	<p>Page 82</p> <p>1 13th, 2002? 2 A Correct. 3 Q Basically, under comments here, 4 it says, see attachment. Looks like 5 she got all satisfactory on the left, 6 but then it said, see attachment. Do 7 you recall ---? 8 A I can tell you right now I don't 9 --- whoever stapled this ---. 10 Q Yes? 11 A This part is not part of this. 12 Q Okay. 13 A This is. It's actually --- 14 here's the observation. It would be 15 this one. 16 Q Which would be the attachment, 17 then? 18 A This would be the attachment for 19 the observation on September 11th. 20 Q It says 9/13? 21 A Yeah. It says date met, 9/13, 22 September 13th. 23 Q Okay. 24 A And there's a commendation and 25 recommendation.</p>

<p>Page 87</p> <p>1 Q And is that what's been marked 2 as Higgins Exhibit 17, which is a 3 response to memo 9/23 to Mr. John 4 Higgins from Claudette de Leon dated 5 9/24/02? 6 A Yes. 7 Q And could you summarize what's 8 contained in this memo that was a 9 response from Ms. de Leon to your prior 10 memo? 11 A She gave me a reason for her 12 lateness to class. She was speaking 13 with teacher Meg Daniels about student 14 Pam Gignone. And you know, Pam was 15 having a hard time in her class, and 16 that's what they were speaking about. 17 And the problem I had with this 18 correspondence or memo from Ms. de Leon 19 was near the end where she states, in 20 your memo, referring to my memo, you 21 also mention that I arrived at 10:35 at 22 my study hall. I believe I arrived at 23 my study hall at 10:33. She's 24 disputing the time that I had in there. 25 And I was looking at the clock. I had</p>	<p>Page 88</p> <p>1 sentence reading, Mrs. de Leon was 2 observed during eighth period Spanish I 3 class, there were 12 students present 4 in the class. I believe that this 5 would be an attachment to one of Mr. 6 Deshner's observations, but I can't 7 tell you what school year. 8 Q Okay. And then the one that 9 says, you need to work on the following 10 areas to improve your performance, 11 preparation planning? 12 A I believe this was either Mr. 13 Dolecki's or Mr. Heller's, but I'm not 14 quite sure. 15 Q And then the part that says, we 16 believe positive classroom behavior 17 begins with a solid foundation? 18 A It's --- 19 Q Is that what actually ends up 20 being 4(a) through (i) on her 21 professional improvement plan for that 22 year? 23 A Yes, yes. 24 (Higgins Exhibit 16 25 marked for</p>
<p>Page 89</p> <p>1 Q And is that what's been marked 2 as Higgins Exhibit 17, which is a 3 response to memo 9/23 to Mr. John 4 Higgins from Claudette de Leon dated 5 9/24/02? 6 A Yes. 7 Q And could you summarize what's 8 contained in this memo that was a 9 response from Ms. de Leon to your prior 10 memo? 11 A She gave me a reason for her 12 lateness to class. She was speaking 13 with teacher Meg Daniels about student 14 Pam Gignone. And you know, Pam was 15 having a hard time in her class, and 16 that's what they were speaking about. 17 And the problem I had with this 18 correspondence or memo from Ms. de Leon 19 was near the end where she states, in 20 your memo, referring to my memo, you 21 also mention that I arrived at 10:35 at 22 my study hall. I believe I arrived at 23 my study hall at 10:33. She's 24 disputing the time that I had in there. 25 And I was looking at the clock. I had</p>	<p>Page 86</p> <p>1 identification.) 2 BY ATTORNEY HEATH: 3 Q Okay. Moving on to Exhibit 16, 4 it's a memo dated 9/23/02 to Ms. de 5 Leon from you concerning being late to 6 class. Do you recall the circumstances 7 that prompted you to draft this memo? 8 A Yes. I was walking down the 9 hall, and fourth period began at 10:31. 10 I saw Mrs. de Leon coming through the 11 hallway doors to classroom at 10:35. I 12 just felt that she needed to be to 13 class on time. One of the reasons, if 14 you remember correctly, she did leave 15 and not tell anyone, the class was 16 unsupervised. So I felt it was 17 important to address this issue, which 18 was addressed in the action plan about 19 being consistent. I understand 20 occasionally extenuating circumstances 21 arise that may delay a teacher from 22 arriving on time, but discussing a 23 student cannot be a cause for 24 tardiness. And I gave her some 25 suggestions that, you know, she could</p>

<p>Page 93</p> <p>1 From you to Ms. de Leon, which attaches 2 the library hall pass roster --- 3 A.Correct. 4 Q--- and her hall pass roster to 5 show the differences? 6 A.Correct. 7 Q.Okay. Keep going. Do you see 8 any other discrepancies? 9 A.Yes. There were two 10 discrepancies. One was Jonas Goldstein 11 on the 19th. He signed in at 10:45. 12 Jonas is probably one of the top five 13 or ten students in his entire class, 14 not a discipline problem, great 15 attendance. So at 10:45 on the 19th, 16 he signed in. If you look between the 17 18th and the 19th on the hall pass 18 roster, the times for those two 19 students above and below is 11:05 and 20 10:33. Now, it's impossible for a 21 student to sign out if they're going in 22 order, and all these are in order, at 23 10:45, or even 10:40, given it takes 24 five minutes to walk to the library. 25 It probably only takes two. But if you</p>	<p>Page 91</p> <p>1 QSo did it prompt you to take any 2 other action? 3 A.Yes. I wanted to, you know, 4 check the times, possibly for my own 5 sanity. I wanted to check to make sure 6 I was right. So I got Mrs. de Leon's 7 hall pass roster for that day. And I 8 also went to the library and got their 9 hall pass --- ten-minute pass sign-in 10 sheet for fourth period. And what I 11 found was this --- I found two things. 12 One, I looked at Jonas Goldstein. And 13 if you look at Jonas Goldstein, the 14 time in the library is 10:45. Now, you 15 turn back to her hall pass roster, and 16 if you see Jonas Goldstein between the 17 dates that are written in here, 9/18 18 and 9/19, look at the time above, 19 11:05, and the time below. I don't 20 know what time it is, but if you can go 21 below that, you look at 10:33. But 22 you've got Jonas sandwiched in there 23 between the 18th and the 19th. He is 24 nowhere else because the 20th starts 25 down the page. Then you look at his</p>
<p>Page 92</p> <p>1 time. 2 QI'm going to have to ask you to 3 take the library pass and add it to 4 this exhibit because there seems to be 5 a missing page. 6 A.The next page. 7 QOf the next exhibit, Exhibit 18? 8 (Higgins Exhibit 18 9 marked for 10 identification.) 11 A.Yes, there is. 12 BY ATTORNEY HEATH: 13 Q.Okay. Go ahead. I'm sorry to 14 interrupt. 15 A.That's okay. So for the 19th in 16 the library, it shows Jonas Goldstein 17 signing in from Mrs. de Leon's class on 18 a ten-minute pass at 10:45. 19 QAnd just so the record is clear, 20 we were looking at Exhibit 17, which is 21 Ms. de Leon's response to your original 22 memo with her hall pass roster. And 23 then you're comparing that with the 24 information attached to Exhibit 18, 25 which is then a follow-up memorandum</p>	<p>Page 90</p> <p>1 a watch on. You know, according to my 2 study hall class roster, and she cites 3 her study hall pass roster, that my 4 first student left at 10:34 to the 5 restroom. Please see copy attached. I 6 also asked Mrs. Daniels to write you a 7 memo about her casual conference on the 8 stairs before fourth period study hall. 9 Needless to say, I'll definitely 10 follow your directives. 11 QAnd why did you have trouble 12 with that part at the end? 13 A.She was disputing the time I put 14 in there. I felt that she, you know, 15 was trying to show that I was being 16 harassing towards her, I was, you know, 17 trying to harass her. She'd used, you 18 know, those statements before, that the 19 administration was harassing her. And 20 I was concerned because --- 21 QDid you feel she was questioning 22 your veracity? 23 A.My truthfulness? Yes. I felt 24 she was questioning me being truthful, 25 and that was upsetting.</p>

<p>Page 94 - Page 97</p> <p>1 meticulous in my documentation. 2 ATTORNEY NICHOLS: 3 I object. Let the record 4 reflect that I object to the 5 term doctored as has been used 6 by opposition Counsel. 7 ATTORNEY HEATH: 8 Fine. 9 ATTORNEY NICHOLS: 10 There is nothing in the 11 record to suggest that --- 12 ATTORNEY HEATH: 13 Mr. Nichols, --- 14 ATTORNEY NICHOLS: 15 --- the Plaintiff 16 has --- 17 ATTORNEY HEATH: 18 Wait. This is a 19 deposition. 20 ATTORNEY NICHOLS: 21 I'm allowed to go on the 22 record, I have not interrupted. 23 ATTORNEY HEATH: 24 I understand, but I'm 25 saying your objection's noted.</p>	<p>Page 95</p> <p>1 It's going to go before 2 the Judge. 3 ATTORNEY NICHOLS: 4 --- totally unfair, okay? 5 ATTORNEY HEATH: 6 Your objection's noted. 7 ATTORNEY NICHOLS: 8 I want to note for the 9 record. 10 BY ATTORNEY HEATH: 11 Q Do you believe that Ms. de Leon 12 changed the record in any way? 13 A Yes, I believe she changed the 14 record to reflect --- 15 Q And did that cause you concern? 16 Was it something that you felt was a 17 common practice among your teachers? 18 A No, it was not. 19 Q And was that something that, in 20 and of itself, could be subject to 21 disciplinary action? 22 A Yes, it could. Absolutely. 23 Q You said that because you came 24 to that conclusion, your scrutiny 25 essentially heightened?</p>
<p>Page 96</p> <p>1 ATTORNEY NICHOLS: 2 Yes. 3 ATTORNEY HEATH: 4 Let's move on. 5 ATTORNEY NICHOLS: 6 Let me finish, please. 7 Let me finish. I say I object 8 and I have to reiterate this. I 9 objected to the term that 10 opposition Counsel has used and 11 she has ascribed to my client 12 that my client has doctored the 13 record. That particular term is 14 freighted with implications that 15 my client has somehow done 16 something that is wrong and that 17 is bordered on --- doctored, as 18 I --- 19 ATTORNEY HEATH: 20 Could you please clarify 21 this portion for the record, 22 please? 23 ATTORNEY NICHOLS: 24 That is totally, --- 25 ATTORNEY HEATH:</p>	<p>Page 94</p> <p>1 look down the page under 2/20 (sic), 2 you see Jonas Goldstein sandwiched 3 between Justin Fraker and Eric Hughes, 4 you got 10:38 and 10:56. And I refer 5 back to the 19th to show Mrs. de Leon's 6 class, Goldstein, 10:45. It fits. 7 Q So what was your conclusion? 8 A The conclusion was that Mrs. de 9 Leon wasn't being totally truthful 10 about the time. I felt she was trying 11 to show that I was just doing this to 12 harass her, was my opinion. 13 Q Do you believe she doctored the 14 records? 15 A Yes, I do. 16 Q Did that cause you concern? 17 A Yeah, because, you know, I'm 18 working with this person on an action 19 plan, I'm, you know, doing discipline, 20 I mean, sent to the office, you know, 21 dealing with parents. And you know, 22 there has to be a certain level of 23 professionalism and trust. And that 24 kind of hurt my trust at that point in 25 time. So I had to be even more</p>

<p>Page 99</p> <p>1 marked for 2 identification) 3 BY ATTORNEY HEATH: 4 Q And let me show you what's been 5 marked as Exhibit 20. And this is a 6 November 13th, 2002 letter from Robin 7 Stockton to Mr. Deshner, and you're 8 copied on the bottom there. 9 A Okay. 10 Q Do you recall this particular 11 issue concerning student 12 confidentiality? 13 A Yes, I do. 14 Q And in a nutshell, what do you 15 recall? 16 A That a student had his head down 17 and was sleeping in class, and Mrs. de 18 Leon said, I'm going to call your 19 parent, got on the phone in front of 20 the class, discussed the student's 21 behavior and discussed the student's 22 grades. 23 Q Was that something that was in 24 line with either the law or school 25 district policy concerning student</p>	<p>Page 98</p> <p>1 A Right. 2 Q Did you believe that that was 3 warranted? 4 A Yes, I did. Yes, I did. 5 Q And was that one of the specific 6 reasons that you believe that, was 7 because of this credibility issue? 8 A Yes. 9 Q Was there any issue that you 10 found, other than --- we discussed the 11 credibility, but was there any other 12 type of issue that you thought was an 13 ongoing concern of yours relative to 14 discussing points of recommendation 15 with Mrs. de Leon regarding --- and 16 accepting responsibility, accepting 17 criticism and moving forward? 18 A Yes. That was part of the 19 action plan that, you know, when we 20 spoke with Mrs. de Leon that she act in 21 a professional manner, she be accepting 22 of administrative strategies, opinions 23 and directives so as to improve in the 24 classroom. 25 Q And was that happening?</p>
<p>Page 100</p> <p>1 --- let me get down through here. A 2 particular incident in this case was a 3 concern where Ashley turned in her 4 homework and Mrs. de Leon claims she 5 never got it. She made Ashley do it 6 over and then accused her of turning it 7 in late. When Ashley tried to explain 8 in the meeting what had happened, she 9 tried to act like she was confused, and 10 the whole thing, to this parent, seemed 11 like a cover-up. She's also had 12 previous children that Mrs. de Leon has 13 had, and she found Mrs. de Leon to be 14 reactive and difficult. And this is 15 just her summation of that meeting. 16 Q Was that something that you 17 discussed then with Mrs. de Leon, this 18 information from Mrs. Carman? 19 A That I don't recall. 20 Q And essentially here, was she 21 questioning Mrs. de Leon's truthfulness? 22 A Yes. She was also questioning 23 Mrs. de Leon's truthfulness and 24 accuracy. 25 (Higgins Exhibit 20</p>	<p>Page 101</p> <p>1 A No. You know, there were 2 continual phone calls, and misconducts 3 were continuing. The discipline, you 4 know, was continuing. It was just an 5 ongoing situation. 6 (Higgins Exhibit 19 7 marked for 8 identification) 9 BY ATTORNEY HEATH: 10 Q I'm going to direct your 11 attention to Exhibit 19, which is an 12 October 15th, 2002 memorandum to you 13 from a Debra Carman. I'll give you a 14 moment to take a look at that. 15 WITNESS REVIEWS DOCUMENT 16 A Yes. 17 BY ATTORNEY HEATH: 18 Q Did you receive this memorandum 19 at or about that time? 20 A Uh-huh (yes). 21 Q And what is this about? 22 A A parent requested a meeting 23 with Mrs. de Leon because her daughter 24 was having trouble in Mrs. de Leon's 25 classroom, felt there were moments of</p>

<p>Page 103</p> <p>1 A 11/19/02 was done before --- 2 Q Oh. Actually, I think there's a 3 mistake and it should be dated 4 12/19/02. I believe that's what I 5 determined when I was reviewing the 6 information. 7 A No, --- 8 Q Or --- no. 9 A --- that's not correct. 10 Q Okay. 11 A I do recall that when I did an 12 attachment regarding observation, I'd 13 state it was an observation. And this 14 is the observation. 15 Q So this ---? 16 A This goes with this. This was 17 an informal observation that I did of 18 Mrs. de Leon to assist her in the 19 classroom and with the classroom 20 management. 21 (Higgins Exhibits 22 and 22 23 marked for 23 identification.) 24 BY ATTORNEY HEATH: 25 Q Okay. I see. So Exhibit 23 is</p>	<p>Page 103</p> <p>1 she said was not a grade. 2 Q Which would be a grade? 3 A Which would be a grade. But 4 that was disputed. Also, it was 5 disputed that she had mentioned his 6 behavior in front of the class. I 7 believe she said she stepped outside. 8 But you know, the parent says, you 9 know, I was on the phone, I asked you 10 these questions. And she said yes to 11 both questions. Are you in the 12 classroom discussing my son? Yes, yes. 13 Q And didn't, in fact, the mother 14 hear the students? 15 A Yes, she heard the students in 16 the background. 17 Q Which is what prompted her 18 question, are you in the classroom? 19 A Correct. Laughing. 20 Q Did you continue to informally 21 observe Ms. de Leon that school year? 22 A Yes, I did. 23 (Higgins Exhibit 21 24 marked for 25 identification.)</p>
<p>Page 104</p> <p>1 BY ATTORNEY HEATH: 2 Q Let me show you what's been 3 marked as Exhibit 21, which is a 4 classroom observation report dated 5 December 19th of 2002. Now, this one 6 again says, see attachment. And I 7 don't know --- 8 A If it's the right one. 9 Q --- if it was part of Exhibit 10 15, is my concern. Is this your 11 printing? 12 A Yes, it is. This is my 13 observation, but this is --- 14 Q And you don't believe that any 15 of the exhibits that we identified, 16 those three pages for Exhibit 15 went 17 with this? 18 A Here's the problem. The one 19 underneath this one goes with the 20 observation. This is an informal 21 observation. This was done separately. 22 Q And that would be Exhibit 21 23 that's dated 11/19/02? 24 A Yes. 25 Q Okay.</p>	<p>Page 102</p> <p>1 confidentiality? 2 A No. It was out of line. 3 Q Do you recall whether you 4 personally spoke to Ms. de Leon 5 concerning this situation? 6 A Uh-huh (yes). 7 Q Yes, you did? 8 A Yes. Mr. Deshner was also 9 involved. 10 Q What do you recall about that 11 conversation? 12 A I think Mr. Deshner headed that 13 meeting. He was talking about her, you 14 know, breaching confidentiality, you 15 know, with the parent discussing the 16 student in front of the class, 17 discussing sensitive issues like 18 grades, behavior and that, you know, 19 which are of a personal nature or 20 confidential nature. 21 Q Did Ms. de Leon accept 22 responsibility and admit she was wrong? 23 A No, she did not. She said she 24 wasn't --- she didn't discuss grades. 25 She was discussing an incomplete, which</p>

<p>Page 109</p> <p>1 A. Three days in a row. When I 2 checked the times today in the nurse's, 3 I discovered that she was there from 4 8:33 to 8:36. So she was in the 5 nurse's office approximately three 6 minutes. She was in the hall 7 approximately 11 minutes, which means 8 she was somewhere else for 11 minutes, 9 whereabouts unknown. Further, she also 10 arrived at class that day without her 11 Spanish book. 12 So I write a suggestion. The 13 first step to getting this student back 14 in line with your expected classroom 15 behavior is to take away her pass 16 privileges. She has proven that she is 17 not capable of being truthful about 18 where she has been while using the hall 19 pass. You had mentioned in your 20 misconduct write-up on December 18th 21 that she told you that her boyfriend 22 took the pass you gave her to the 23 nurse. This should have told you right 24 away that she was probably meeting her 25 boyfriend in the hallway and only going</p>	<p>Page 107</p> <p>1 Right. 2 BY ATTORNEY HEATH: 3 Okay. And looking at the 4 observation then, we've established 5 that Exhibit 23 is the attachment. Can 6 you please summarize that attachment? 7 Are we on the observation of 8 12/19? I'm not numbered again. I 9 don't know. 10 Q. Your attachment. 11 Absolutely. Okay. This is an 12 observation that was done on December 13 19th of '02. This would've been my 14 second observation for the '02/'03 15 school year. I have two improvements 16 needed. One is the teacher/student 17 interactions, the first improvement 18 needed, maintain consistency when 19 working with students. And I write sec 20 attachment. And under that I have 21 control and discipline, and I write, 22 you had trouble with Anita on 12/18 23 because she asked for a pass to the 24 nurse and slammed the door when 25 leaving. When she returned, she did</p>
<p>Page 108</p> <p>1 not have the pass you had given her, so 2 you told her she needed a pass from the 3 nurse, and again she left, slamming the 4 door behind her. You called me 5 regarding the situation and then wrote 6 her up on a misconduct slip that you 7 sent to the office. 8 The next day, I went into Mrs. 9 de Leon's classroom to do the 10 observation and I write, the day I was 11 observing, Anita again asked for a pass 12 to see the nurse. The time was 8:22. 13 You write her a pass and she leaves. 14 She does not return until 8:37. When 15 she returns, she does have a pass from 16 the nurse. The problem with what I 17 observed is that this student is being 18 enabled. She was being allowed to 19 leave whenever she wanted to. When I 20 checked with the nurse's office roster, 21 I discovered that Anita was there 22 during the first period class on 12/17 23 and 12/18 from Mrs. de Leon's room, and 24 again today on the 19th. 25 Q. That's three days in a row?</p>	<p>Page 106</p> <p>1 really the attachment for Exhibit 21, 2 is what it amounts to. And then 3 Exhibit 22 is your informal 4 observation? 5 A. Mine aren't numbered, so I'll 6 take your word for it. 7 Q. Yes, that's what it is. 8 ATTORNEY NICHOLS: 9 Excuse me. I'm looking 10 at it. I have a copy of the 11 informal observation dated 12 November 19th, and the 13 accompanying document you 14 referred to, Counsel, is what? 15 ATTORNEY HEATH: 16 Exhibit 23, which is the 17 next document down, which is --- 18 it says, regarding observation 19 on 12/19/02, and it's dated 20 1/3/03. It's Exhibit 23. It's 21 the next one in order. 22 ATTORNEY NICHOLS: 23 12/19/02. And that's 24 from Mr. Higgins to Ms. de Leon? 25 ATTORNEY HEATH:</p>

<p>Page 110</p> <p>1 to the nurse afterwards to secure an 2 alibi. The second part of this 3 observation, under management and 4 organization, I have an improvement 5 needed, control and discipline. 6 Maintain consistency when working with 7 students. 8 Another girl, Amber, was given a 9 pass to the nurse for a Band-Aid. When 10 she returned at 8:24, she sat down and 11 began writing a personal note. You 12 noticed that she was not following 13 along with the rest of the class. You 14 tell her to stop what she is doing and 15 pay attention. She tells you she has 16 no book. You remind her that she needs 17 to come prepared. You give her a book 18 and a warning for breaking the rule. 19 When Anita returns at 8:37, she gives 20 you her pass and sits down. She has no 21 book and does not attempt to 22 participate in class. You do not 23 address Anita for being unprepared and 24 she is not given a book. And I write, 25 I understand that she may continue to</p>	<p>Page 111</p> <p>1 refuse to participate, but you need to 2 treat her the same way as you treat 3 everyone else to show the other 4 students that you are being consistent 5 and will not tolerate inappropriate 6 classroom behavior. 7 And you're saying that 8 essentially other students that were 9 not prepared were treated differently? 10 A: Yes. I mean, you know, again, 11 that falls to consistency, and that was 12 my biggest thing with both action 13 plans, that I felt that problems with 14 Mrs. de Leon's classroom, a big part of 15 it was a lack of classroom consistency, 16 classroom management. 17 And then the third area on your 18 attachment is maintains accurate 19 records. Can you just summarize what 20 your issue was there? 21 A: Yeah. At 8:15, she asked her 22 students to get out actively eight that 23 was assigned from the previous day. 24 There was some confusion. Students 25 were kind of looking at each other. A</p>
<p>Page 112</p> <p>1 student informed her that they only 2 were on activity seven, and then she 3 tells them to get out activity seven so 4 they can check their homework. 5 Basically, further in the lesson plan, 6 you write that you will be giving a 7 quiz today on the unit three lesson 8 four worksheet. At 8:39, a student, 9 Ray, asks about the quiz for today. 10 You tell him it will be tomorrow. At 11 8:44, you give them the unit three 12 level four worksheet to work on at 13 home. Your lesson plans indicate this 14 worksheet was to be assigned on 15 Wednesday. Not a major thing, but it 16 is an important thing. 17 I write that I understand it is 18 difficult to cover absolutely 19 everything you have planned for the 20 week due to time limitations. You 21 might have more than one section for 22 the same class. She had four Spanish I 23 classes that year, and they probably 24 were all working at different speeds. 25 I suggested having a copy of the lesson</p>	<p>Page 113</p> <p>1 plans in front of her for each Spanish 2 class, and either check off or 3 highlight completed procedures and 4 assignments for that day to enable her 5 to accurately gauge where each 6 particular class was. 7 Q: Now, I note that the date of 8 this memo is 1/3/03, but the 9 observation was conducted on 12/19/02. 10 What was the gap there? 11 A: The gap appears to be --- or 12 would have been Christmas break. 13 Q: And when you came back from 14 break, then you spoke with Ms. de Leon 15 pretty much right away about this 16 observation? 17 A: Yes. We probably returned on 18 the 2nd or the 3rd of that year. I 19 don't recall, but it was either/or. 20 And we met that day, and it was within 21 five days. 22 Q: Five actual school days? 23 A: Five actual school days. 24 Q: Now, going back in time a little 25 bit, we're going to go to Exhibit 22,</p>

1 which is actually the November 19th, 2002 memorandum that you said was an informal observation. And I note it is an informal observation, but yet you put this in writing.
6 A Right. And I go on to explain the reason I did this. I spoke to her on Monday regarding some students who had been giving her discipline problems in the third period Spanish II class. I suggested that I sit in, I do an informal observation, and I felt it might be helpful. And Mrs. de Leon agreed to that. So I just stopped in. And it's not written up on a formal observation form, just kind of written out for Mrs. de Leon.
18 One of my observations was at 9:42, the class bell rang and the doors open. She is at the board completing the daily agenda. As her back is turned, a student slips in after the bell and takes a seat at the back of the room. Mrs. de Leon turned around just as another student arrives late.

1 You tell her she is late and explain your tardy rule to her. She then receives a tardy warning from you. You notice that Tyler is in the wrong seat. You tell him to please move to his correct seat, which he does without argument.
8 The suggestion I made here, the written reflection you gave to the 10 administration regarding classroom observations on October 23rd of '02. I stated that you observed a couple of teachers standing at the door waiting for the students before the bell rang. You further stated you had been standing at the door waiting for students to arrive before the bell rings, which caused the students to arrive on time. And today she was not at the door and two students arrived late. I believe that if she had been consistent in greeting her students at the door, students wouldn't be attempting to sneak into the classroom unnoticed. Further, you did give Erica

1 a warning for being tardy, but the other student, Tyler, got away with it. The problem is that, you know, the class was aware that Tyler did not receive a warning. Students will use this as an opportunity to argue that Tyler didn't receive a warning for being late the next time they are. Also, I would suggest being at the door every day to meet your students and then close the door after the bell has sounded. This will show the students that you will not tolerate tardiness and are being consistent in the application of the tardy rule.
16 Observation 9:43 ---
17 Q And I was going to say I don't want you to necessarily read all of these observations, but ---
20 A Yeah.
21 Q --- essentially, generally, they all relate to the same student that was late, Erica?
24 A Right.
25 Q And can you just summarize what

1 these issues are here with her?
2 A Let me read it real quick. Just 3 that escalating behavior, on this one 4 with Erica, the escalating problem in 5 the classroom. And I wanted the times 6 that she was testing Mrs. de Leon and 7 just see how much she could get away 8 with before she reacted.
9 Q Including a comment at 10:14 10 that says ---?
11 A That said, you know --- which I 12 never had in any observation where the 13 student turns around and says directly 14 to me, why are you --- in reference to 15 Mrs. de Leon, why are you acting like a 16 real teacher when Mr. Higgins is 17 present? And then she turns to me to 18 say I should come to class more often. 19 BRIEF INTERRUPTION
20 ATTORNEY HEATH:
21 Okay. Sorry.
22 BY ATTORNEY HEATH:
23 Q So then you give her a 24 suggestion?
25 A Correct. And we move on.

<p>Page 119</p> <p>1 Q And keeping students, essentially on task?</p> <p>2 A On task.</p> <p>3 Q Okay. Now, were you aware, after this observation occurred, that Ms. de Leon was put on suspension on November 20th, 2002, concerning breaching student confidentiality we had already talked about with Robin Stokion?</p> <p>4 A Yes, I was aware of it.</p> <p>5 Q So there's a period of time when she was out of the classroom; is that correct?</p> <p>6 A Yes.</p> <p>7 (Higgins Exhibit 24 marked for identification.)</p> <p>8 BY ATTORNEY HEATH:</p> <p>9 Q Let me show you what's been marked as Exhibit --- and I believe it's 24. And prior to that time, I believe that Mr. Heller observed the Plaintiff in January of 2003. And then looking at Exhibit 24, it's to</p> <p>10 Q And what do you recall about that?</p> <p>11 A Yes.</p> <p>12 Q Was she aware there was an investigation? Was she unhappy about that fact?</p> <p>13 A Yes.</p> <p>14 apprised of what was going on?</p> <p>15 A Yes, yes.</p> <p>16 Q Was she aware there was an investigation? Was she unhappy about that fact?</p> <p>17 A Yes.</p> <p>18 Q And throughout the course of the investigation, was Ms. de Leon kept apprised of what was going on?</p> <p>19 A Yes, yes.</p> <p>20 Q Was she aware there was an investigation? Was she unhappy about that fact?</p> <p>21 A Yes.</p> <p>22 Q Let me show you what's been marked as Exhibit --- and I believe it's 24. And prior to that time, I believe that Mr. Heller observed the Plaintiff in January of 2003. And then looking at Exhibit 24, it's to</p> <p>23 that I have. Where is that?</p>	<p>Page 118</p> <p>1 Q Then the next observation concerns another student who seems to be sleeping.</p> <p>2 A Yes. You see that Greg appears to be sleeping as his head is on the desk. She tells Greg to sit up nice and straight. Greg had his head on the desk. You ask Greg if he was sleeping. Another student tells you Greg is paying attention because he can see his eyes are open. You then tell Greg to sit up nice and straight. You want him to stay awake and pay attention. And I think one of the rules I did cite previously in one of my observations was be attentive, you know, don't stay awake, just please be attentive. If you tell them what that is, it's easier to define.</p> <p>3 Q And so then relative to your suggestions --- and you're talking again about consistency?</p> <p>4 A Yes. And this is all about --- the underlying tone here is consistency in the classroom.</p>
<p>Page 120</p> <p>1 Claudette de Leon from George Deshner concerning a classroom incident on January 31st of 2003. And just take a quick moment to review this information concerning the gum in the hair. Do you recall there being a student issue concerning that?</p> <p>2 A Yes.</p> <p>3 Q And you're mentioned, actually, in the third paragraph on the first page of this memo ---</p> <p>4 A Yes.</p> <p>5 Q --- concerning a meeting. Can you just summarize what your recollection is about the bubblegum incident, and Anice Mosley?</p> <p>6 A Yes. In a nutshell, or you know, to summarize, a student, Anice, was accused of throwing gum, or putting gum, in Mrs. de Leon's hair. And after an investigation that was conducted by Mr. Deshner, and I believe Mr. Morgan at the time, it was found that another student put the gum in the hair and Mrs. de Leon had, you know, chosen the</p>	<p>Page 119</p> <p>1 Wrong student --- or, you know, accused the wrong student of throwing the gum.</p> <p>2 The student became angry and asked to go to the office, and she did.</p> <p>3 Q Was there an issue about another student then admitting they had ---?</p> <p>4 A Yeah. The other student, after the investigation, the student who threw the gum in Mrs. de Leon's hair admitted to throwing the gum and was disciplined for the incident. And then I ---. Go ahead.</p> <p>5 Q And throughout the course of the investigation, was Ms. de Leon kept apprised of what was going on?</p> <p>6 A Yes, yes.</p> <p>7 Q Was she aware there was an investigation? Was she unhappy about that fact?</p> <p>8 A Yes.</p> <p>9 Q And what do you recall about that?</p> <p>10 A She felt that we didn't get the 24 right student. There's a misconduct 25 that I have. Where is that?</p>

<p>Page 125</p> <p>1 Q So essentially it's basically 2 the same things but more directives and 3 more detail; is that fair to say? 4 A Yes. 5 Q Okay. Looking at the last two 6 pages at the bottom, directives that 7 you must complete during the remainder 8 of the 2002 to 2003 school year; do you 9 see where I am? 10 A On the last page? 11 Q Bottom of the second to the last 12 page, top of the last page. There are 13 six items listed. 14 A Right. And I kind of went 15 through the first two. Again, comply 16 with requirements of the revised action 17 plan. Keep a daily log of disciplinary 18 actions, which is to be turned into the 19 office on Fridays or the last day of 20 the workweek before you leave. Be 21 prepared to provide a written 22 explanation of how you arrived at a 23 student's grade if requested. We had, 24 you know, problems with student grades 25 and how ---</p>	<p>Page 123</p> <p>1 there a suggestion about how to more 2 appropriately monitor her classroom and 3 be aware of what's going on --- 4 A Yes. 5 Q --- about moving her computer? 6 A Yes. Mr. Deshner made a 7 suggestion --- or, I think Mrs. 8 Willison suggested that she move the 9 computer to a place by the desk where 10 she would be facing the students and 11 not facing away from them. Also, if 12 you choose to send a student to the 13 office and we conduct an investigation 14 and find that the accused is, indeed, 15 innocent, and we also have determined 16 who the guilty party is, she needs to 17 be more accepting of, you know, what 18 has been discovered and not continue to 19 berate the innocent student. That was 20 done by Mr. Deshner. 21 Q Thereafter in February of 2003, 22 did the administration determine that 23 it would be an appropriate measure to 24 revise Ms. de Leon's corrective action 25 plan for the year?</p>
<p>Page 124</p> <p>1 A Yes. 2 (Higgins Exhibit 25 3 marked for 4 identification.) 5 BY ATTORNEY HEATH: 6 Q And I'll show you what's been 7 marked as Exhibit 25, which is the 8 revised corrective action plan. It 9 indicates revised February 2003. Take 10 a moment to review this to determine 11 what you believe are the significant 12 differences or points of concentration 13 that were not in the previous plan. 14 A Probably near the end of the 15 plan. It appears that we have a 16 numbered list here. Comply with 17 requirements of your revised action 18 plan. Keep a daily log of all 19 disciplinary actions and return it to 20 the office on Fridays. It's, again, 21 more specific. As I got more specific, 22 more detail-oriented, this became also 23 more oriented because we were trying to 24 focus Mrs. de Leon on what needed to be 25 done.</p>	<p>Page 122</p> <p>1 Q Put it this way. Look at the 2 bottom of the first page and the top 3 paragraph of the second page. 4 A Oh, okay. Second page? 5 Q Top paragraph. 6 A Okay. Let me start over. It's 7 been a while, three years. 8 Q My question was, was Ms. de Leon 9 unhappy that you were investigating 10 this incident? 11 A Yes, because she felt we were 12 taking the student's word over hers. 13 Q And as it turned out, it wasn't 14 the person that she had disciplined 15 that did it anyway; correct? 16 A She got the wrong person. 17 Q And when she was informed that 18 she got the wrong person, how did ---? 19 A She wanted to argue the point. 20 Q So even though another kid 21 admitted that they did it, Ms. de Leon 22 argued with you anyway? 23 A Yes. She was not accepting of 24 our investigation. 25 Q The last paragraph then, is</p>

<p>Page 126 - Page 129</p> <p>25 And we have already talked about 24 Aniccc Mosley, for example. That was 23 A.Yes. 22 assumptions to be inaccurate? 21 investigation showed Ms. de Leon's 20 a variety of student issues wherein an 19 QIn February of 2003, were there 18 A.Yes. 17 don't recall? 16 QOkay. Your answer is that you 15 A.You know, I don't recall. 14 revised action plan? 13 QAnd was she receptive to this 12 A.Yes. 11 de Leon at some point, is that correct? 10 QNow, this was reviewed with Ms. 9 the areas identified. 8 sustained improvements, performance in 7 And six, to demonstrate significant and 6 classroom management and discipline. 5 referrals in an effort to improve 4 student disciplines and misconduct 3 purpose of reviewing and discussing 2 AMeet every two weeks for the 1 QNumber five?</p> <p>Page 127</p>	<p>Page 126</p> <p>1 QAnd isn't it fair to say that 2 that directive is basically all 3 teachers have to be prepared to explain 4 how they arrived at a grade if 5 requested? 6 A.Yes. 7 QSo that's not unusual? 8 A.No. 9 QIt's expected, correct? 10 A.Right. 11 QAnd number four? 12 A.Keep a log of all parent 13 exchanges, which includes the date, 14 method of discussion and a short 15 anecdotal summary which includes who 16 initiates the interaction and why, 17 along with the final outcome. 18 QSo essentially this is the same 19 as before, but a little more detail 20 requiring --- 21 A.Right. 22 Q--- more information --- 23 A.Right. 24 Q--- and an outcome report? 25 A.Right. Due every two weeks.</p>
<p>Page 129</p> <p>1 did, I called probably the best 2 students in the class out. And what I 3 mean by best students, had good 4 academic records, had no discipline 5 problems to speak of, and were good 6 kids, good attendance. 7 QAnd is it Patrick Booth? 8 A.Patrick Booth. 9 QAnd I believe if you look at the 10 misconduct form that Ms. de Leon 11 prepared, which is not part of the 12 exhibit, I think she indicated that 13 Patrick Booth heard Anita call her a 14 whore? 15 A.Yes. On the misconduct, which I 16 don't see here, but --- 17 QIt's not here. 18 A.Okay. The misconduct stated 19 that --- or Mrs. de Leon writes, 20 Patrick said, did you hear what she 21 called you --- or, that she called you 22 a whore? And Mrs. de Leon said, I did, 23 but I just ignored it. I remember that 24 was on the misconduct. So she's saying 25 Patrick heard this. When I thought</p>	<p>Page 128</p> <p>1 January 31st of 2003. 2 A.Right. 3 (Higgins Exhibit 26 4 marked for 5 identification.) 6 BY ATTORNEY HEATH: 7 QAnd I'm showing you now what's 8 Exhibit 26, which is a letter from you 9 to her dated 2/28/03 about a student 10 apparently calling her a whore? 11 A.Uh-huh (yes). 12 QCan you just summarize? And I 13 don't necessarily want you to read the 14 letter. Just summarize what you recall 15 occurred in this incident. 16 A.I received a misconduct from 17 Mrs. de Leon that a student, Anita, had 18 called her a whore as she was leaving 19 the classroom. And I received this 20 misconduct, so I called the student 21 down when I received it and I talked to 22 the student. She said, no, I did not 23 call Mrs. de Leon a whore. And so she 24 was adamant that she didn't. So I 25 conducted an investigation. What I</p>

1 I felt the students would say things or
2 do things to get Mrs. de Leon off task.
3 She'd answer honestly, and it would be
4 something possibly that students knew
5 was inappropriate but maybe Mrs. de
6 Leon didn't understand, and the way the
7 class was off and running. And what
8 this information, I felt, had in it was
9 a way to approach that and to see it.
10 So that's why that was assigned.
11 Q So it was assigned to assist
12 her; is that accurate?
13 A Excuse me?
14 Q Was it assigned to assist her or
15 punish her?
16 A To assist her.
17 (Higgins Exhibit 27
18 marked for
19 identification.)
20 BY ATTORNEY HEATH:
21 Q In looking at Exhibit 27, this
22 is a response to your memo dated
23 2/28/03 concerning Anita, the student.
24 And on this letter, she copies her PSEA
25 attorney and Mr. Flippin of the Human

1 Patrick down to talk to him, he had
2 never heard that statement. He said
3 the student made a general comment,
4 something to the effect, this is bull
5 crap or bullshit, you know, as she was
6 leaving. I don't know if Ms. de Leon
7 kicked her out or asked her to leave or
8 if she left on her own accord. But
9 that was his statement. I called two
10 other students down. They also
11 verified --- good students, good
12 academics, not discipline problems,
13 that they were there when it happened
14 and know this student did not call Mrs.
15 de Leon a whore.
16 Q So was the purpose of this
17 letter clarifying that she needs to be
18 accurate when sending misconduct
19 reports to the office?
20 A Absolutely.
21 Q And again, this is something
22 that was an ongoing theme; is that
23 correct?
24 A Correct.
25 Q And then you assign her chapters

1 to read, ---
2 A Right.
3 Q --- which essentially in
4 accordance with her improvement plan to
5 show effective measures for
6 implementing discipline effectively?
7 A Correct. And that falls back,
8 you know, to the action plan, and also
9 that falls back to the District's
10 philosophy and rationale, along those
11 lines. And I felt --- in here what I
12 was trying to do with the discipline in
13 the classroom is solving discipline
14 problems, strategy for classroom
15 teachers. There's some interesting
16 things in there of being able to
17 understand what a student is saying to
18 you. Are they, you know, talking to us
19 from a child standpoint, or, you know,
20 parent, or, you know, adult? And are
21 they trying to pull you off task? How
22 are they speaking to you? Along those
23 lines.
24 And I felt some of the problems
25 in the class was miscommunication. I

1 Relations Commission; do you see that?
2 A Yes.
3 Q And essentially, when you
4 received this memorandum, what did you
5 think? And also I note it says
6 February 28th, 2003, but then there's a
7 stamp there that said received March
8 10th, ---
9 A Right.
10 Q --- 2003. Do you believe that
11 you received it around March 10th of
12 2003?
13 A Yes.
14 Q And I wonder, did anyone ever
15 explain the lag time there?
16 A Not that I'm aware of. I'm not
17 sure why there was lag time there.
18 Q And what did you take from this
19 memo?
20 A Again, her, you know, not
21 agreeing with my findings. Basically
22 feeling that, you know, I take the
23 student's word over hers and accusing
24 me of supporting students' defiant and
25 hostile behavior towards her, that, you

<p>Page 137</p> <p>1 February 5th, you and Mr. Heller met 2 with Ms. de Leon to discuss her work 3 performance issues. You spoke about 4 the improvement plan --- 5 A: Yes. 6 Q: --- which would be the revised 7 plan; is that correct? 8 A: Yes. 9 Q: And the requirement to maintain 10 a log. And at that time, she had 11 indicated she did not have the required 12 log, but did have the information. And 13 so that was a Tuesday. So on Thursday, 14 she submitted a log, the 27th? 15 A: Right. 16 Q: And then you said --- what did 17 you say to her? 18 A: I indicated that I wanted the 19 student files that were being 20 referenced, the maintenance of this 21 log. She had informed us that the 22 information was being maintained at her 23 residence and that she had those files 24 at home except for first period 25 students, which were in her room. And</p>	<p>Page 135</p> <p>1 something else? 2 A: Right. 3 Q: And you're not saying that ---? 4 If Anita had said this is bull crap or 5 bullshit, that would be subject to 6 discipline, too? 7 A: Yes, it would be. 8 Q: So it's not saying that that 9 --- it didn't necessarily make light of 10 that statement. It was the accuracy of 11 the statement? 12 A: Yeah. And also, you know, with 13 the District, profanity, bull crap, 14 bullshit, you know, it's directed to 15 --- you know, you hear it in the hall. 16 You know, you do hear the language. 17 But when it's directed to a staff 18 member, administrator, you know, any 19 school personnel, then it changes 20 scenario. The discipline's much 21 higher. She subsequently --- if she 22 would have confirmed that she had 23 called Mrs. de Leon that, would have 24 been suspended three to five days from 25 school.</p>
<p>Page 136</p> <p>1 (Higgins Exhibit 28 2 marked for 3 identification) 4 BY ATTORNEY HEATH: 5 Q: Now, looking at Exhibit 28, it's 6 a February 28th, 2003 memorandum from 7 you to Ms. de Leon requesting 8 information. Is this in accordance 9 with the revised corrective action plan 10 --- 11 A: Yes. 12 Q: --- relative to the log? 13 A: Yes. 14 Q: And you're requesting that the 15 log be submitted? 16 A: Uh-huh (yes). Yeah. I'm 17 requesting that, you know --- to take a 18 look at the log, the reason being, 19 again, you know, I'm seeing some 20 inconsistencies in the discipline is 21 continuing. I want to see what's in 22 the log, to see where I can, you know, 23 assist Mrs. de Leon in improving her 24 classroom management. 25 Q: You say here, on Tuesday,</p>	<p>Page 134</p> <p>1 know, I'm responsible for the hostile 2 environment --- she uses hostile 3 environment in her classroom. She 4 cites another teacher, that this 5 teacher got called a name, again, 6 placing blame. 7 Q: Doesn't she even mention the 8 fact-finding conference with the PHRC? 9 A: Yes. 10 Q: And what was your feeling after 11 you reviewed this letter? 12 A: Just, you know, frustrated. I 13 mean, again, this is sort of failing to 14 accept, you know, the investigation. 15 And it's not a vendetta against her. I 16 mean, again, questioned the 17 truthfulness of what she's hearing, you 18 know, exactly why she'd write down 19 something, and even cite a student in 20 this write-up. You know, the student 21 heard it, too. The student admitted to 22 hearing it. When I bring the student 23 down, the student says, no, it didn't 24 happen. 25 Q: And that what they heard was</p>

1 I wanted to, you know, see the
2 inconsistencies if there were some, and
3 you know, work with Mrs. de Leon in
4 regard to the log.
5 Q So then you gave her until
6 Monday, March 3rd to turn it over; is
7 that right?
8 A Correct.
9 Q Also, is it appropriate to keep
10 student discipline records in your
11 house?
12 A I don't feel it is.
13 Q And again, isn't that a
14 confidentiality issue?
15 A Yes, it could be.
16 Q Student records are to be
17 maintained on premises so there's some
18 control?
19 A Yes.
20 (Higgins Exhibit 29
21 marked for
22 identification.)
23 BY ATTORNEY HEATH:
24 Q Exhibit 29 is a response to the
25 memo that you wrote on February 28th.

1 2003 from Ms. de Leon to you. And
2 again, Mr. Flippin of the Human
3 Relations Commission is CC'ed on that.
4 A Uh-huh (yes).
5 Q And again, the issue of Patrick
6 Booth and Anita comes up in this memo.
7 Do you see this two-page document?
8 A Yes, I do.
9 Q And can you just summarize
10 what's contained in here and how you
11 felt about this?
12 A Well, I mean, as I'm reading
13 through it, you know, she cites
14 students and it's not a big point until
15 the end. She goes on, you know, I
16 asked for a log and she indicated, it
17 was in my computer. I told you I keep
18 the log in my computer because it needs
19 to be updated at all times. But she
20 had the hard files at home, so that
21 doesn't quite make sense to me. It
22 also mentioned, you keep a file for
23 each student for each class. This is
24 not part of the action plan. This is
25 my personal documentation.

1 So I show Mr. Deshner, and he
2 looks at it, and he says, well, she's
3 citing Mr. Robert Flippin in Human
4 Relations and she carbon copied him.
5 Well, on here, you know, it cites
6 student names, and, you know, again, we
7 have a confidentiality issue.
8 Q And there's various students'
9 names in here?
10 A Throughout, yes.
11 Q Did you at some point receive
12 the discipline log as you had
13 requested?
14 A I received the first log on
15 February 27th.
16 (Higgins Exhibits 30 and
17 31 marked for
18 identification.)
19 BY ATTORNEY HEATH:
20 Q That's Exhibit 30; is that
21 correct?
22 A Yes.
23 Q And then the second log you
24 received on what date?
25 A February 28th.

1 Q So the next day?
2 A Yes. A second log.
3 Q A second log was received. Now,
4 did you have an opportunity to compare
5 or contrast these two logs that were
6 received a day apart?
7 A Yes.
8 Q And what did you determine?
9 A That she didn't follow the
10 classroom management plan, the
11 behavioral plan that was in place. I
12 mean, the action plan was not followed.
13 bottom line. There was inconsistencies
14 in how these students were dealt with.
15 She had told one of the parents, Mrs.
16 Siverd, Robin Stockton's mother, that,
17 you know, you've had a discipline
18 problem all year. If you look in here,
19 you see him cited once on the first for
20 detention and that, you know, he was
21 spoken to on October 11th. Phil Siverd
22 asked me if he could go back to his
23 original seat. He said he won't talk
24 and he will stay right there. I
25 agreed. I mean, it's just like this

<p>Page 143</p> <p>1 Counsel, a question --- a 2 notation, rather. Please stop 3 testifying for the witness. 4 BY ATTORNEY HEATH: 5 Q: The student logs, you said there 6 also was inconsistencies between the 7 logs and the files. What do you mean 8 by files? 9 A: Some information --- when I went 10 through the files, some of the 11 information wasn't contained in the 12 computer version of the discipline log. 13 I had many examples cited, but 14 they're, you know, not here, of those 15 inconsistencies. And I do wish they 16 were because then I could show or 17 explain how I came about the 18 differences and why I had a problem 19 with those. But they are not in here, 20 so --- 21 Q: Was that in a memo form or 22 something? 23 A: Yes. 24 Q: And relative to those 25 differences, was that something that</p> <p>1 reprehensive. Do you see that? 2 A: Yes. 3 Q: Do you believe that you were at 4 the meeting on the 4th? 5 A: Yes. Hold on. Yes. 6 Q: And if you look at the bottom 7 paragraph, on the first page, it 8 indicates that Mr. Dolecki was there, 9 Mr. Desher was there, you were there, 10 Mr. Heller was there? 11 A: Correct. 12 Q: Or actually, I'm sorry. I 13 misspoke. The bottom paragraph of the 14 first page talks about scheduling 15 another meeting Tuesday, March 11th, 16 2003. And then it tells her who will 17 be present from the administration, and 18 notes that she's entitled to bring a 19 representative. Do you see that? 20 A: Yes. 21 Q: Now, just from your recollection 22 as you sit here today, relative to the 23 meeting that occurred on March 4th 24 concerning the discipline log, was that 25 a second meeting? Did you meet with</p>	<p>Page 142</p> <p>1 stuff was thrown in here. It's not 2 consistent. 3 Q: Did you find any differences 4 between the two logs? 5 A: Yes. And --- 6 Q: I'm not going to ask you 7 specifically, but this is something 8 that --- 9 A: But yeah, there were differences 10 between the two logs. 11 Q: You had --- 12 A: And the student files. 13 Q: You had testified at the 14 arbitration concerning Ms. de Leon's 15 termination; do you recall that? 16 A: Yes. 17 Q: And at that time, you were asked 18 that same question of what you had 19 indicated, that you saw something along 20 the lines of 20 to 30 differences 21 between the logs and the student files? 22 A: Correct. 23 Q: Is that what you believe? 24 A: Yes. 25 ATTORNEY NICHOLS:</p>
<p>Page 144</p> <p>1 you discussed with Ms. de Leon? 2 A: I believe so, yes. You know, 3 where I felt the consistency was 4 lacking, where the action plan wasn't 5 followed, and why I felt the discipline 6 wasn't working in the classroom. 7 (Higgins Exhibit 32 8 marked for 9 identification) 10 BY ATTORNEY HEATH: 11 Q: Do you recall having a meeting 12 with her then --- I believe that the 13 meeting was either March 3rd or March 14 4th. And then I'm going to show you 15 what's been marked as Exhibit 32 and 16 ask you to take a look at this. And 17 you are copied on this letter from Mr. 18 Heller to Ms. de Leon. It's a letter 19 dated March 6th concerning a suspension 20 with pay. And it says, the purpose of 21 this letter is to confirm your 22 suspension with pay communicated to you 23 by me at the conclusion of our meeting 24 Tuesday, March 4th, 2003, in the 25 presence of your association</p>	<p>Page 142</p> <p>1 stuff was thrown in here. It's not 2 consistent. 3 Q: Did you find any differences 4 between the two logs? 5 A: Yes. And --- 6 Q: I'm not going to ask you 7 specifically, but this is something 8 that --- 9 A: But yeah, there were differences 10 between the two logs. 11 Q: You had --- 12 A: And the student files. 13 Q: You had testified at the 14 arbitration concerning Ms. de Leon's 15 termination; do you recall that? 16 A: Yes. 17 Q: And at that time, you were asked 18 that same question of what you had 19 indicated, that you saw something along 20 the lines of 20 to 30 differences 21 between the logs and the student files? 22 A: Correct. 23 Q: Is that what you believe? 24 A: Yes. 25 ATTORNEY NICHOLS:</p>

<p>Page 147</p> <p>1 along. And I mean, how can something 2 work when you're not going to buy into 3 it? And I think, you know, it just 4 went downhill. 5 Q And you say at the end, I feel 6 we need to work together if we are to 7 make the needed improvements in your 8 classroom? 9 A Yes. 10 Q And at the end of the meeting, 11 did you feel that it went well or not 12 well? 13 A No, I don't feel it went well at 14 all. I felt we got nowhere with that 15 particular meeting. 16 (Higgins Exhibit 34 17 marked for 18 identification.) 19 BY ATTORNEY HEATH: 20 Q The next exhibit, 34, which is a 21 letter from Cheryl Albaugh dated April 22 7th, 2003. 23 A Yes. 24 Q And it references you that she's 25 writing in response from having talked</p>	<p>Page 147</p> <p>1 meeting that occurred on March 11th 2 then when she was suspended without 3 pay? 4 A Yes. 5 Q And what do you recall, if 6 anything, about that meeting? 7 A I think Mr. Heller did most of 8 the speaking, just briefly outlined the 9 points and the problems that were 10 present, and that there would be a 11 further investigation. 12 Q Did Ms. de Leon have any 13 response? 14 A Not that I recall. 15 (Higgins Exhibit 33 16 marked for 17 identification.) 18 BY ATTORNEY HEATH: 19 Q Let me show you what's been 20 marked as Exhibit 33, which is an April 21 2nd, 2003 memorandum to Ms. de Leon 22 from you concerning assigned reading. 23 And just summarize the purpose of this 24 memorandum. We have already talked 25 about ---</p>
<p>Page 148</p> <p>1 A Yes. 2 Q --- the assignment that had been 3 made. 4 Q I made the assignment to Mrs. de 5 Leon. I felt it would be helpful in 6 the classroom. And during the meeting, 7 I even provided more suggestions to 8 Mrs. de Leon. I also offered a list of 9 suggestions I had made. I felt that, 10 you know, when I was going over this, I 11 wanted to point out that, you know, Mr. 12 Heller has reminded you about being 13 confrontational working with 14 administration. 15 When I got her response, you 16 know, for her doing those chapters, I 17 felt, you know, she didn't really focus 18 on what I wanted her to focus on. She 19 wanted to focus on, you know, passing 20 the blame and was very sarcastic in her 21 writing, negative to the point of being 22 confrontational in her response to me. 23 And I felt that, you know, there's too 24 wide of a distance, that, you know, she 25 lacked buying with the action plan all</p>	<p>Page 146</p> <p>1 her yourself before that, or were the 2 discipline log and the inconsistencies 3 all discussed at the same meeting on 4 the 4th, if you remember? 5 A Again, I don't remember. 6 Q And this is a suspension with 7 pay, and issues that are going to be 8 investigated are essentially what? 9 A Issues that were outlined here 10 for the suspension? 11 Q Yes. 12 A One through four. Failure to 13 adequately maintain the log that was 14 required, the breach of student 15 confidentiality, inaccurate reporting 16 of student's conducts on several 17 occasions, not properly following 18 through on student discipline issues as 19 previously directed to do by Mr. 20 Desher and myself. 21 Q Are you aware that she was 22 ultimately suspended without pay in 23 March of 2003 because of those issues? 24 A Yes. 25 Q And were you present at the</p>

<p>Page 151</p> <p>1 redone them. And the notebook got 2 lost. And I think the gist of it, he 3 felt he'd given it to Mrs. de Leon. 4 Mrs. de Leon said the sub had lost it, 5 something along those lines. And there 6 was --- 7 Q And it was eventually recovered, 8 but then she wouldn't give it back; is 9 that right? 10 A Yeah. And I'm trying to recall 11 why. She wanted a meeting. 12 Q Then if you look at the third 13 paragraph from the bottom on the second 14 page, --- 15 A Yes. 16 Q --- Mrs. Albaugh says, let me 17 make it very clear, after all this and 18 what other parents are saying, we will 19 not have a conference with this 20 teacher --- 21 A Right. 22 Q --- unless Mr. Higgins or Mr. 23 Deshner are present. I am sorry to 24 bring them in on this, but this would 25 be for our protection.</p>	<p>Page 152</p> <p>1 A Right. There was a breakdown, 2 you know, between the parent and Mrs. 3 de Leon, a communication breakdown. It 4 just wasn't a good situation. They 5 wanted Adam --- or wanted Mrs. de Leon 6 to --- they were afraid that, you know, 7 she's going to, you know, do something. 8 And in that regard --- 9 Q Was there also a concern about 10 not only just the interaction of the 11 parent/teacher conference, but also how 12 much the kids were actually learning in 13 her class? 14 A Yes. The parent does question 15 that here. 16 Q But that was something that you 17 said essentially Mr. Deshner was the 18 point person on that? 19 A Yes, he was. He could give you 20 better answers to questions in regard 21 to this situation. 22 ATTORNEY NICHOLS: 23 Question, Counsel. How 24 much more you got to go? 25 ATTORNEY HEATH:</p>
<p>Page 153</p> <p>1 You've got the exhibit 2 list in front of you. We're 3 going through the rest of the 4 exhibit list, and I've only got 5 another couple pages of 6 questions here, a page. 7 ATTORNEY NICHOLS: 8 You've got another couple 9 of pages to go? 10 ATTORNEY HEATH: 11 A page. 12 ATTORNEY NICHOLS: 13 A page. 14 (Higgins Exhibit 35 15 marked for 16 identification.) 17 BY ATTORNEY HEATH: 18 Q I'm looking at Exhibit 35, which 19 is a memorandum dated April 7th, 2003, 20 this is from George Deshner to 21 Claudette de Leon, and it indicates, 22 thank you for meeting with Mr. Higgins 23 and myself on Friday, April 4th to 24 discuss issues concerning classroom 25 management.</p>	<p>Page 154</p> <p>1 with Mrs. VanTuijl? 2 A VanTuijl (corrects 3 pronunciation). 4 Q VanTuijl, Mr. Higgins, Mr. Heller 5 and Mr. Deshner. My concern is Mrs. de 6 Leon, Adam Albaugh, second period 7 Spanish I class. I'll give you a 8 moment to take a look at that and I'll 9 just ask you if you recall any issues 10 concerning this particular student and 11 the parent complaint. 12 WITNESS REVIEWS DOCUMENT 13 BY ATTORNEY HEATH: 14 Q This essentially concerns a 15 missing notebook? 16 A Yes. I believe Mr. Deshner 17 dealt with this parent situation. I 18 was present because I did know Adam 19 personally --- not personally, but as, 20 you know, a student, well-known 21 student. The problem was that I 22 believe there was a sub in for Mrs. de 23 Leon when she was initially suspended, 24 and this notebook came up missing. He 25 had asked for the assignments. He'd</p>

<p>Page 157</p> <p>1 A Just some anecdotal records for 2 myself to, you know --- kind of the 3 situations, you know, in school come 4 fast and furious. Just to try to keep 5 a handle on things and, you know, what 6 was going on, some of the situations I 7 was seeing. Personal notes. 8 Q And these dates, was this for 9 the 2002/2003 school year? 10 A Yes. 11 Q Okay. Essentially, these were 12 related to student discipline issues; 13 correct? 14 A Correct. And just to make 15 notation of, you know, some parent 16 phone calls, some, you know, student 17 complaints, a few here and there. And 18 there's a lot more than what was here, 19 but you know, that's when I thought to 20 write stuff down. Again, as the year 21 rolls on, I did become a little bit 22 more detailed in some of the situations 23 I felt that were important. 24 (Higgins Exhibit 37 25 marked for</p>	<p>Page 155</p> <p>1 point, you became sarcastic towards the 2 administration and your statements were 3 unacceptable. Do you recall anything 4 like that that occurred at this meeting 5 on April 4th? 6 A Yes. Yeah, Mr. Koznowski was 7 there. She just, you know, basically 8 stated that we weren't supportive of 9 her, that we were always believing the 10 kids over her, that we were the reason 11 that there was problems in the 12 classroom and not her. 13 Q And did her union rep attempt to 14 intervene at this point? 15 A Not that I recall. 16 Q It says, Mr. Koznowski, at 17 several intervals, asked you to refrain 18 from making your comments. You still 19 continued to ---. 20 A Oh. 21 Q Continued despite his request to 22 refrain from the statements. 23 A That's written here. I would 24 agree to that. I don't really recall, 25 honestly.</p>
<p>Page 156</p> <p>1 (Higgins Exhibit 36 2 marked for 3 identification.) 4 BY ATTORNEY HEATH: 5 Q Okay. Looking at Exhibit 36, 6 these are notes concerning student 7 confidentiality issues. And I just 8 wanted to know if you could identify 9 these notes as being your notes or 10 someone else's notes. And I notice 11 that the first two pages are in one 12 kind of type and the next several pages 13 are in a different kind of font. 14 A They're the same notes, 15 actually, redone, possibly my 16 secretary, what have you, that's why. 17 But these are the same, if you turn the 18 page, as the end notes. 19 Q Pardon me? 20 A As the notes at the end of the 21 third page. 22 Q Are these your notes? 23 A Yes, they are. 24 Q And what was the purpose of you 25 keeping these notes?</p>	<p>Page 154</p> <p>1 A Okay. 2 Q And part of this relates to Mrs. 3 Albaugh's concern --- 4 A Right. 5 Q --- about the missing work? 6 A Okay. Yeah. There was a 7 student, not Adam, but another student 8 who had five Spanish I notebooks in his 9 locker. So Mr. Deshner wanted to hit 10 on a few points, and again, point out 11 that, you know, she wasn't following 12 the action plan. And we were 13 attempting to assist her, give her 14 suggestions, and she wasn't taking 15 those suggestions. And you know, there 16 was a breakdown, total breakdown with 17 the classroom, communication with 18 parents. 19 Q And again, Mr. Deshner, here in 20 the first paragraph towards the bottom 21 mentions the classroom observation you 22 did on April 2nd, where students were 23 questioning their notebooks' 24 whereabouts. And he had mentioned this 25 at this meeting and says, at this</p>

<p>Page 158 - Page 161</p> <p>25 Q--- or policy book?</p> <p>24 A Yes.</p> <p>23 Central School District handbook ---</p> <p>22 policies from the Crawford County</p> <p>21 first of all, are these group of</p> <p>20 please identify whether or not ---</p> <p>19 Q Can you, just for the record,</p> <p>18 BY ATTORNEY HEATH:</p> <p>17 WITNESS COMPLIES</p> <p>16 show them to Mr. Nichols.</p> <p>15 marked as Exhibit 39. Maybe you should</p> <p>14 believe, six policies, which we've</p> <p>13 like you to look at a compilation of, I</p> <p>12 Q Thank you. And lastly, I'd</p> <p>11 BY ATTORNEY HEATH:</p> <p>10 identification.)</p> <p>9 marked for</p> <p>8 (Higgins Exhibit 39</p> <p>7 A Yes.</p> <p>6 related to those inconsistencies?</p> <p>5 you had compiled that specifically</p> <p>4 referring to relative to the notes that</p> <p>3 Q And is that what you were</p> <p>2 to be following.</p> <p>1 supposed to have in place and supposed</p> <p>Page 161</p>	<p>Page 159</p> <p>1 Leon's performance that year?</p> <p>2 A Yes.</p> <p>3 Q Okay.</p> <p>4 ATTORNEY NICHOLS:</p> <p>5 Counsel, could we take</p> <p>6 five minutes?</p> <p>7 ATTORNEY HEATH:</p> <p>8 Yes. I'm just going to</p> <p>9 mark something collectively.</p> <p>10 ATTORNEY NICHOLS:</p> <p>11 Okay.</p> <p>12 ATTORNEY HEATH:</p> <p>13 Then I'm finished.</p> <p>14 ATTORNEY NICHOLS:</p> <p>15 Yes, go ahead, please.</p> <p>16 ATTORNEY HEATH:</p> <p>17 I want to mark these</p> <p>18 collectively as Exhibit 38.</p> <p>19 (Higgins Exhibit 38</p> <p>20 marked for</p> <p>21 identification.)</p> <p>22 SHORT BREAK TAKEN</p> <p>23 BY ATTORNEY HEATH:</p> <p>24 Q Mr. Higgins, we took a little</p> <p>25 break here. And during that time, you</p>
<p>Page 160</p> <p>1 had shown me --- we had been missing</p> <p>2 some information when I had gone over</p> <p>3 some exhibits with you. They were the</p> <p>4 discipline logs that were turned in by</p> <p>5 Ms. de Leon ---</p> <p>6 A Yes.</p> <p>7 Q --- on February 27th, 2002 and</p> <p>8 February 28th, 2002. And you had</p> <p>9 indicated to me that you had actually</p> <p>10 taken the time to put in writing the</p> <p>11 inconsistencies that you found in those</p> <p>12 logs?</p> <p>13 A Yes.</p> <p>14 Q Now, what's before you is an</p> <p>15 exhibit that is a compilation of notes</p> <p>16 marked as Exhibit 38. Is that</p> <p>17 something that you compiled?</p> <p>18 A Yes, it is.</p> <p>19 Q And could you just, for the</p> <p>20 record, identify what is contained in</p> <p>21 there, please?</p> <p>22 A Students that I saw some</p> <p>23 inconsistencies in discipline that</p> <p>24 didn't follow the action plan or the</p> <p>25 behavioral plan that Mrs. de Leon was</p>	<p>Page 158</p> <p>1 identification.)</p> <p>2 BY ATTORNEY HEATH:</p> <p>3 Q And Exhibit 37 is an</p> <p>4 unsatisfactory evaluation for the</p> <p>5 2002/2003 school year dated April 11th</p> <p>6 of 2003 and signed by you?</p> <p>7 A Yes.</p> <p>8 Q Do you believe that this</p> <p>9 unsatisfactory evaluation was merited?</p> <p>10 A Yes.</p> <p>11 Q Were you aware that the</p> <p>12 administration recommended to the Board</p> <p>13 that Ms. de Leon be terminated?</p> <p>14 A Yes.</p> <p>15 Q And ultimately, was she</p> <p>16 terminated?</p> <p>17 A Yes.</p> <p>18 Q Do you believe the termination</p> <p>19 was warranted for just cause?</p> <p>20 A Yes.</p> <p>21 Q In reviewing Exhibit 37 and the</p> <p>22 unsatisfactory portions, do you believe</p> <p>23 that this is a fair and accurate</p> <p>24 representation of some of the issues</p> <p>25 that you had faced concerning Ms. de</p>

<p>Page 165</p> <p>1 ATTORNEY NICHOLS: 2 Would you mark this, 3 please? It's a summation of the 4 chapters that Ms. de Leon was 5 asked to --- required to 6 summarize under the terms of the 7 action plan. 8 (Higgins Exhibit 42 9 marked for 10 identification.) 11 ATTORNEY HEATH: 12 Can I just ask a 13 question? Relative to Exhibit 14 40, you said it was 2001 to 2002 15 observations. It looks like 16 it's handwritten notes that you 17 prepared? Ms. de Leon prepared? 18 MS. DE LEON: 19 Well, I was taking notes 20 when I was performing these 21 observations. 22 ATTORNEY HEATH: 23 I see. Okay. I was 24 confused there a minute. 25 ATTORNEY NICHOLS:</p>	<p>Page 163</p> <p>1 I have. 2 EXAMINATION 3 BY ATTORNEY NICHOLS: 4 QMr. Higgins, I'm Caleb Nichols. 5 I represent Ms. de Leon in this 6 proceeding. I have a few questions I'd 7 like to ask you. Starting with the 8 action plan, that you had testified 9 concerning the action plan. 10 ATTORNEY HEATH: 11 Which year? 12 BY ATTORNEY NICHOLS: 13 QIt started in 2001. That was 14 the first action plan, I believe. You 15 testified that you did have an input in 16 the devising of the creation of the 17 action plan; is that correct? 18 AThat's correct. 19 QAnd you worked with Mr. Deshner 20 in developing that plan? 21 AYes. 22 QAnd did you also participate in 23 the implementation of the plan? 24 AYes. 25 QAnd as for the plan which was</p>
<p>Page 164</p> <p>1 presented to Ms. de Leon to follow, you 2 were involved in the implementation of 3 that? 4 AYes. 5 QAnd I believe you testified that 6 Ms. de Leon did not fulfill the action 7 plan in its entirety; is that correct? 8 That was your testimony? 9 AThat was part of my testimony. 10 yes. 11 QI just want to note for the 12 record now that three documents that 13 --- and this is --- the first one 14 represents 2001 to 2002 observations. 15 I would ask that it be marked. 16 (Higgins Exhibit 40 17 marked for 18 identification.) 19 ATTORNEY NICHOLS: 20 And also if you would 21 mark this, 2002 to 2003 22 observations. 23 (Higgins Exhibit 41 24 marked for 25 identification.)</p>	<p>Page 162</p> <p>1 APolicy book, yes. 2 QAre the policies referenced in 3 the teacher handbook? 4 AYes. 5 QAnd what are the policies that 6 are before you? 7 Ahazing, unlawful harassment, 8 intimidation, sexual harassment, and an 9 updated version of sexual harassment. 10 believe. Oh, one's for pupils and 11 one's for administrative and employees. 12 QAnd as you said, those were 13 policies that are in the Crawford 14 Central School District policy book? 15 APolicy book, yes. 16 QAre these something that the 17 administration is aware of? Are these 18 policies something that you're aware 19 of? 20 AYes. 21 QAnd are they implemented by the 22 District? 23 AYes. 24 ATTORNEY HEATH: 25 That's all the questions</p>

<p>Page 167</p> <p>1 Q Okay. And you have noted those 2 for the record. I'm not asking you to 3 recite those. 4 A Sure. 5 Q What I'm simply saying, I'm 6 asking you, based upon her submissions 7 to you, those logs, is it fair to say 8 that she did make a conscious effort to 9 comply with the action plan? Would you 10 agree with that, that she did make a 11 conscious effort to comply? 12 A Yes, to a point. 13 Q Okay. All right. Continuing, 14 there's a question I have concerning 15 --- regarding ---. Now, you've just 16 shown me --- and you have recited 17 various public policies and public 18 mandates that the School District 19 enforces --- implicants, I should say. 20 Harassment, sexual harassment and other 21 policies. Now, I'm going to further 22 inquire as to whether the 23 administration, and when I say 24 administration, I'm talking about, in 25 this case, the principal and assistant</p>	<p>Page 166</p> <p>1 I'd like to show these to 2 Mr. Higgins. 3 ATTORNEY HEATH: 4 Let me put a pencil on 5 them so they don't get lost. 6 May I just look at 41 and 42 7 also? 8 BY ATTORNEY NICHOLS: 9 Q Mr. Higgins, I now show you 10 what's been marked Exhibit 40 and ask 11 you, do you recognize having received a 12 copy of that from Ms. de Leon? 13 WITNESS REVIEWS DOCUMENTS 14 A I'll testify that Mrs. de Leon 15 did indeed complete these classroom 16 observations. I don't recall 17 specifically receiving these. I do 18 remember this, and I also remember the 19 note that she gave me, because she had 20 stated she did complete the 21 observation. 22 Q I believe she gave it to Mr. 23 Deshner. 24 A And she may have given it to Mr. 25 Deshner, that is correct. And vaguely</p>
<p>Page 168</p> <p>1 expediency purposes, I would just ask 2 that you look at it. Can you identify 3 having received that from Ms. de Leon 4 in satisfaction, partial satisfaction 5 of her obligation of the action plan? 6 A This is everything we just 7 covered, I believe. 8 Q Yes. That's in the record 9 already. 10 A Yeah. 11 Q That's why I'm not asking it to 12 be marked. 13 A That I recognize it? 14 Q Yes. 15 A Yes, I recognize it. 16 Q Okay. Fine. Thank you. And 17 now, in response to inquiries posed by 18 your Counsel, you said that Ms. de Leon 19 --- that you noted discrepancies in the 20 preparation of two logs. You referred 21 to the student discipline logs that she 22 prepared, right? 23 A Well, actually, three things. 24 Q Three things? 25 A Yes.</p>	<p>Page 169</p> <p>1 Q Okay. And you have noted those 2 for the record. I'm not asking you to 3 recite those. 4 A Sure. 5 Q What I'm simply saying, I'm 6 asking you, based upon her submissions 7 to you, those logs, is it fair to say 8 that she did make a conscious effort to 9 comply with the action plan? Would you 10 agree with that, that she did make a 11 conscious effort to comply? 12 A Yes, to a point. 13 Q Okay. All right. Continuing, 14 there's a question I have concerning 15 --- regarding ---. Now, you've just 16 shown me --- and you have recited 17 various public policies and public 18 mandates that the School District 19 enforces --- implicants, I should say. 20 Harassment, sexual harassment and other 21 policies. Now, I'm going to further 22 inquire as to whether the 23 administration, and when I say 24 administration, I'm talking about, in 25 this case, the principal and assistant</p>

<p>Page 173</p> <p>1 with --- 2 A.Disabilities. 3 Q--- Disabilities Act. 4 A.Yes. 5 Q.Right. 6 A.Not that I'm aware of. 7 Q.Not that you're aware of? 8 A.Not that I'm aware of. 9 Q.And FERPA? 10 A.Yes. 11 Q.There has been some discussion 12 in dealing with the confidentiality of 13 student records? 14 A.Uh-huh (yes). 15 Q.And the rule, as I understand, 16 applies to that. Has there been 17 training given by the administration of 18 the School District relative to FERPA? 19 Training given to the teaching staff. 20 Do you know? 21 A.I believe so, sir. I believe, 22 you know, at the very least, the 23 teachers have been informed of FERPA. 24 They have at least some --- 25 Q.What was the nature of the</p>	<p>Page 171</p> <p>1 Q.Okay. I meant Ms. Templeton. 2 Okay. Is there someone --- do you have 3 another assistant principal now in 4 place who works with you? 5 A.When I first started --- I'll go 6 --- there's been a litany. Let me go 7 through them. 8 Q.Okay. 9 A.The first one I started with, 10 under Mr. Deshner, was James T. Morgan, 11 assistant principal. Mr. Deshner 12 retired. James Morgan took the 13 position of principal of the building 14 approximately two years ago. At that 15 time, there was a position open for 16 assistant principal, in which case Pat 17 Deardorff was hired as the other 18 assistant principal. And when Pat got 19 --- excuse me, Mrs. Deardorff got her 20 own building, she is the Crawford 21 Elementary principal, she was replaced 22 this year by a Tamara Clark from 23 Connaut Valley, I believe. 24 Q.Okay. All right. And so Ms. 25 Clark is now ---?</p>
<p>Page 172</p> <p>1 A.Yeah, their assistant principal 2 now. 3 Q.Okay. And that's the full 4 complement of the principal's office? 5 A.Yes. 6 Q.Mr. Deshner, you, and Ms. Clark? 7 All's Mr. Morgan, myself and Mrs. 8 Clark now. Mr. Deshner retired two 9 years ago. 10 Q.Oh, yes. That's right. Okay. 11 I stand to be corrected there. All 12 right. The ADA law --- the 13 administration I'm referring to, did 14 the principal's office provide training 15 in ADA law to the teaching staff? 16 A.I don't recall. 17 Q.You don't know whether you have 18 anybody in the principal's office or 19 the administration --- when I say the 20 administration, I'm also including the 21 superintendent's office, as well. 22 Since you have been there, has there 23 been any instruction given to the 24 teacher staff regarding the ADA 25 mandate? I'm talking the Americans</p>	<p>Page 170</p> <p>1 principals, including you; okay? And 2 that would be Mr. Berkeley; right? 3 A.I didn't work with Mr. 4 Berkeley. 5 Q.Okay. So since you came in 6 1999/2000 ---? 7 A'99. The end of '99/2000 in 8 April. 9 Q.Okay. And Mr. Deshner, of 10 course, was the principal then? 11 A.Correct. 12 Q.And you became an assistant 13 principal? 14 A.Yes. 15 Q.And is there another assistant 16 principal? 17 A.Yes. 18 Q.Who is that? 19 A.Do you want the current one or 20 the one that was when I started? The 21 one I replaced or ---? 22 Q.You replaced Ms. ---? 23 A.No. I replaced Larry Gilligan. 24 Larry Gilligan replaced Carol 25 Templeton.</p>

<p>Page 177</p> <p>1 Q Have they been younger teachers, 2 junior in terms of their status, or 3 more senior teachers, or both? 4 A One was a younger teacher, and 5 actually, one is close to retirement. 6 Q I think you mentioned four. You 7 used the number four, right? 8 A Four, but I said personally I 9 think I put two --- well, I know I put 10 two on besides Mrs. de Leon, which 11 would be three. But I am aware that 12 there have been other teachers in our 13 building in the District on action 14 plans. 15 Q That was before you came? You 16 said four since you started your tenure 17 with the District? 18 A Yeah, since I've started. 19 Q Right. 20 A Before I came, I wouldn't know. 21 Q You just don't know. Right. 22 Okay. Now, the gender of those four, 23 are they all female or are they male? 24 A Both were male. 25 Q Male and female?</p>	<p>Page 175</p> <p>1 A I think it has been given. 2 Q Can that be documented in some 3 way? 4 A By someone from central office, 5 possibly? 6 Q Well, either your office or 7 central office that it was given for 8 record keeping purposes, I'm saying? 9 A Probably, yes. 10 Q It can be documented? 11 A Probably. 12 Q All right. Now, if I may, let 13 me just divert a moment --- digress, I 14 should say, to the action plan, okay? 15 I just wanted to step back to that 16 again. All right. Now, you have 17 explained why the action plan was 18 assigned to Ms. de Leon. What is the 19 typical profile of a teacher in this 20 school district who is assigned to the 21 action plan? 22 A Profile as in what needs 23 improvement? 24 Q Yes, as to what needs 25 improvement.</p>
<p>Page 176</p> <p>1 A For example, something has been 2 --- in regard to discipline and 3 classroom management, they'd be turning 4 in lesson plans even if --- you know, 5 if there's a pattern of something 6 that's not being done and it's affected 7 the classroom or contractual nature, 8 and by verbally addressing it by 9 talking to them, the teacher may need 10 to turn in a lesson plan. And if it's, 11 you know, continuous, as in Ms. de 12 Leon's case it was --- and I have had 13 other teachers on action plans, so to 14 speak. It doesn't necessarily ---. 15 Q How many? How many other 16 teachers during your tenure have you 17 placed ---? 18 A That I know of? 19 Q Right. Been placed on action 20 plans. 21 A Possibly three or four. That I 22 placed personally? Probably two 23 besides Mrs. de Leon in regard to an 24 improvement plan for a specific 25 purpose.</p>	<p>Page 174</p> <p>1 training; do you recall? 2 A I don't recall. 3 Q Would it have been in the nature 4 of a --- would it have been an oral 5 presentation or would it have been a 6 dissemination, something in the form of 7 a written dissemination of policy? You 8 just don't know? 9 A I just don't recall. I mean, I 10 don't. 11 Q And that's true with respect to 12 ADA and FERPA? You're saying you just 13 don't recall any training that would 14 have been given to the teaching staff? 15 A ADA I don't recall. FERPA I 16 believe the teachers have been made 17 aware of, whether it be in the 18 teacher's handbook or, you know, made 19 aware of through online or, of course, 20 after school. But I believe the 21 teachers are aware of FERPA, ADA, I 22 can't quite recall. 23 Q But can that be documented, that 24 is the training given for FERPA? You 25 say you think it has been given.</p>

25 that.
24 evaluation, she received no credit for
23 Q Yet it appears that in your
22 A Okay.
21 evaluation that you conducted.
20 done prior to the March 7th, 2002
19 with the School District, that had been
18 de Leon had taken through her career
17 continuing education courses that Ms.
16 record yesterday evidencing the
15 batch of documents we placed in the
14 on that, Mr. Higgins, is this. The
13 taken. And my further question to you
12 education courses that Ms. de Leon had
11 documentation evidencing continuing
10 the record a whole batch of
9 the record that yesterday, we placed in
8 Q Okay. I just want to note for
7 A Yes.
6 Q Mr. Deshner made the comment?
5 Deshner.
4 A That would have been Mr.
3 Q Did you make that comment?
2 BY ATTORNEY NICHOLS:
1 of that, and ---.

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25 second year?
24 Q Right. You revised it the
23 sufficient improvement.
22 A Correct. But there wasn't
21 two years, right?
20 Q But Ms. de Leon was on at least
19 I'd say at the minimum, one semester.
18 A If I had to set a time limit,
17 required to stay under the action plan?
16 teacher --- once he or she is assigned,
15 plan? How long do you require a
14 trained, if you will, under the action
13 long of a duration is a teacher
12 Q All right. And typically, how
11 A Yes.
10 inclusive of Ms. de Leon
9 Q One female. And that's
8 female.
7 sorry. To confirm, three males, one
6 A So it would be three males. I'm
5 duration of the ---?
4 Q And typically, how long is the
3 BY ATTORNEY NICHOLS:
2 consider ourselves younger.
1 a few more years than I do, but we

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25 A I may answer? Yes, I am aware
24 may answer.
23 Objection to form. You
22 ATTORNEY HEATH:
21 A I did ---.
20 continuing education, is that correct?
19 growth, that is, taken courses in
18 de Leon had not shown professional
17 who did the evaluation, said that Ms.
16 you --- in terms of it was someone else
15 commentary. And I'm not sure whether
14 been an evaluation, there was a
13 Q I read somewhere --- it may have
12 classroom management.
11 improve student discipline and improve
10 focus her energies in the classroom to
9 stated that we had to revise it, to
8 classroom. And that's why it was
7 things weren't improving in the
6 wasn't meeting the action plan and
5 A Yes, I did. That's because she
4 you didn't state the reason why?
3 second year? You stated you did, but
2 Q And why did you revise it the
1 A Yes.

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25 younger teacher, too. He probably has
24 started in middle school. He was a
23 A The fourth one was --- oh. He
22 one.
21 He's asking the fourth
20 ATTORNEY HEATH:
19 done.
18 place, that I wanted things, you know,
17 male teacher that I put action plans in
16 was a young male teacher and an older
15 then at the high school level, there
14 A I would be Mrs. de Leon. And
13 one?
12 Q The four. Okay. And the third
11 A Yes
10 Q That includes Ms. de Leon?
9 three ---.
8 A Four total. I was involved with
7 there were four.
6 Q Oh, okay. I thought you said
5 Yeah.
4 A Young teacher, old teacher.
3 Q Oh.
2 younger and one older.
1 A No, just both were male. One

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<p>Page 182 - Page 185</p> <p>25 A: I believe it was Mr. Mebok.</p> <p>24 and I believe another person?</p> <p>23 12th of you, Ms. de Leon, Mr. Heller,</p> <p>22 later, there was the meeting on March</p> <p>21 Q: All right. Now, five days</p> <p>20 A: Correct.</p> <p>19 7th, 2002?</p> <p>18 The third one was conducted on March</p> <p>17 Q: Okay. And that was the one ---</p> <p>16 changed.</p> <p>15 behavior in the classroom. That's what</p> <p>14 A: A lack of control of the student</p> <p>13 being negative?</p> <p>12 First two being positive, the third one</p> <p>11 dramatically from the first two, the</p> <p>10 the third observation which changed</p> <p>9 Q: I see. Well, what did influence</p> <p>8 A: No.</p> <p>7 Q: It did not?</p> <p>6 A: No, it did not.</p> <p>5 was negative?</p> <p>4 influence the third observation, which</p> <p>3 students and the parents of students</p> <p>2 receipt of those complaints from</p> <p>1 Q: And what I'm asking you, did the</p>	<p>25 Q: What about the five-day rule?</p> <p>24 BY ATTORNEY NICHOLS:</p> <p>23 Mrs. de Leon was not able to continue.</p> <p>22 A: I feel the conference was done.</p> <p>21 may answer.</p> <p>20 Objection to form. You</p> <p>19 ATTORNEY HEATH:</p> <p>18 that correct?</p> <p>17 observation and evaluation is done; is</p> <p>16 evaluation is done --- I mean, the</p> <p>15 required a five-day conference once an</p> <p>14 Q: --- as to the rule which</p> <p>13 BY ATTORNEY NICHOLS:</p> <p>12 Objection.</p> <p>11 ATTORNEY HEATH:</p> <p>10 requirement ---</p> <p>9 compliance with the strict five-day</p> <p>8 Q: So that means you were not in</p> <p>7 was not able to continue.</p> <p>6 A: I was not able to. Mrs. de Leon</p> <p>5 meeting; right?</p> <p>4 Q: You didn't conclude that</p> <p>3 A: No.</p> <p>2 was not concluded; right?</p> <p>1 Q: You said that particular meeting</p>
<p>Page 184</p> <p>25 A: Yes.</p> <p>24 correct?</p> <p>23 and parents of students; is that</p> <p>22 you received complaints from students</p> <p>21 observation and the third observation,</p> <p>20 that in the interval between the second</p> <p>19 Q: All right. And then you said</p> <p>18 A: I'm not saying I didn't. Yes.</p> <p>17 Q: Which you testified to; right?</p> <p>16 A: Yes.</p> <p>15 First two were satisfactory; right?</p> <p>14 Q: All right. Observations, the</p> <p>13 BY ATTORNEY NICHOLS:</p> <p>12 observations versus evaluations.</p> <p>11 Sure. They're</p> <p>10 ATTORNEY HEATH:</p> <p>9 were satisfactory; correct?</p> <p>8 the third evaluation. The first two</p> <p>7 then. You just testified --- that was</p> <p>6 was a negative evaluation you gave her</p> <p>5 not receive any credit for that. It</p> <p>4 Q: And the question is why she did</p> <p>3 BY ATTORNEY NICHOLS:</p> <p>2 Objection to the form.</p> <p>1 ATTORNEY HEATH:</p>	<p>25 broke down from there.</p> <p>24 the classroom. And it just actually</p> <p>23 administrator, on what I observed in</p> <p>22 the administration --- and myself, the</p> <p>21 A: You know, the disagreement with</p> <p>20 Q: Emotional.</p> <p>19 A: Emotional outburst.</p> <p>18 part; right?</p> <p>17 vocal. You said an outburst on her</p> <p>16 Q: But it was not clear why she was</p> <p>15 A: Yes.</p> <p>14 that she was vocal; is that right.</p> <p>13 say Ms. de Leon was --- I think you say</p> <p>12 said --- at that particular meeting you</p> <p>11 Q: All right. On March 12th, you</p> <p>10 plan on, she had representation.</p> <p>9 from the beginning of the first action</p> <p>8 that meetings we had with Mrs. de Leon,</p> <p>7 A: I don't recall. But I do recall</p> <p>6 for Ms. de Leon?</p> <p>5 request of Ms. de Leon, as a union rep</p> <p>4 Q: Okay. Was he there at the</p> <p>3 A: Correct.</p> <p>2 union rep; is that correct?</p> <p>1 Q: Mr. Mebok, you say? And he's a</p>

<p>Page 187</p> <p>1 A But specifically, I can't tell 2 you when. 3 Q All right. Now, did you have 4 occasion to discuss the letter with Mr. 5 Dolecki and Mr. Heller or others? 6 A If I did, I don't remember, but 7 if I did, it would have probably gone 8 discussed. It would have probably gone 9 to Mr. Deshner, who would have 10 discussed it with me. That would be 11 the chain of command. 12 Q Do you recall discussing it with 13 Mr. Deshner? 14 A I said I don't recall, but if I 15 did discuss it with him, it would have 16 been Mr. Deshner first. He would have 17 given me the information. But I don't 18 recall. 19 Q Did you attend a meeting on 20 March 18th with Mr. Heller, Mr. Deshner 21 and Ms. de Leon? 22 A Is there a record I can look at 23 that, you know, would help? I mean, 24 there were a lot of dates. There were 25 a lot of meetings. You're asking for a</p>	<p>Page 187</p> <p>1 received by someone in administration 2 from Ms. de Leon's doctor, right? 3 A Yes. 4 Q Yes. Okay. And that was --- 5 we're talking about the same time 6 frame, somewhere between March 12th and 7 March 18th; are we not? 8 A Yes. 9 Q That time frame? 10 A Sure. 11 Q Now, did you yourself receive 12 the letter, or do you know who received 13 the letter? 14 A I would assume it would be 15 central office. 16 Q So that would have been Mr. 17 Dolecki, right, or Mr. Heller? 18 A Either/or. I'm not sure. The 19 letter would not have come to me. 20 Q Well, I believe you also spoke 21 to the contents of that written 22 communication; did you not? 23 A Spoke to the contents of it? 24 Q Yes. What the letter consisted 25 of, what it was about.</p>
<p>Page 188</p> <p>1 A I mean, I remember it now 2 because I've seen it, --- 3 Q Right. 4 A --- and I can tell you now, but 5 you know, when I actually --- 6 Q When did you first see it? 7 A Like I said when I testified, I 8 believe it was March, but I'm not sure. 9 Q Okay. And I'm asking, under 10 what circumstances did that letter come 11 into your possession where you were 12 able to find out what it was about? 13 ATTORNEY HEATH: 14 Objection. Asked and 15 answered. You may answer. 16 Rephrase the question. He said 17 he didn't know when he got it. 18 BY ATTORNEY NICHOLS: 19 Q How did the letter come to you? 20 attention or come to you? 21 A I don't recall, but I do 22 remember seeing it. And I believe I 23 was aware of the letter or, you know, 24 the condition in March. 25 Q Okay. Now ---.</p>	<p>Page 186</p> <p>1 A What about the five-day rule? 2 Q I'm asking you, were you in 3 compliance with that? 4 A I feel we were. I feel we were 5 in compliance with the five-day rule. 6 Q You also testified in this vein. 7 You testified that you were aware that 8 there was a letter received by the 9 administration from Dr. Mercatoris? 10 ATTORNEY HEATH: 11 Objection. He did not 12 testify to that. 13 BY ATTORNEY NICHOLS: 14 Q I thought you said you were 15 aware that there was some type of 16 communication from Ms. de Leon's 17 doctor, who was Dr. Mercatoris on that 18 occasion, right? You were aware of 19 that? You testified to that; didn't 20 you? 21 A I believe my testimony was I 22 believe I was aware. I can't tell you 23 when. 24 Q You were aware that there was 25 some type of written communication</p>

<p>1 Q No, no, no. It was not three 2 days. He suspended her for two months, 3 over two months. And he directed 4 her --- 5 ATTORNEY HEATH: 6 Objection to form. 7 BY ATTORNEY NICHOLS: 8 Q --- to undergo --- 9 ATTORNEY HEATH: 10 She was not suspended for 11 two months. Hearsay. 12 ATTORNEY NICHOLS: 13 Well, how long? Counsel, 14 how long did he suspend her for? 15 ATTORNEY HEATH: 16 Until she was released to 17 return to work by her doctor. 18 ATTORNEY NICHOLS: 19 Right. And that was two 20 months plus. Okay. 21 BY ATTORNEY NICHOLS: 22 Q Now, the gist of that letter was 23 that he said ---. Here it is. 24 A Good. 25 Q That's it. You might take a</p>	<p>1 say you possibly were in attendance, 2 did you hear Mr. Heller ask for Ms. de 3 Leon's resignation? 4 A Yes, I did. 5 Q You heard him say that? 6 A It was an option. I don't think 7 he asked for it. It was posed as an 8 option. 9 Q Well, as --- 10 ATTORNEY HEATH: 11 Could you just let him 12 answer your questions, please? 13 A If that's the meeting you were 14 discussing, I was in that meeting with 15 Mr. Heller because I do remember Mr. 16 Heller saying to Mrs. de Leon --- and I 17 don't believe if Mr. Dolecki was there 18 or not. I don't recall because it's 19 three or four years ago now. But I 20 believe he posed it as an option that 21 the District would honor. 22 BY ATTORNEY NICHOLS: 23 Q As best that you can recall, and 24 as objectively as you can recall, and 25 precisely, what did he say to her?</p>
<p>1 specific one. Is there ---? 2 Q Well, let me see if I can jog 3 your memory, if I may. There was a 4 letter authored, prepared by Mr. 5 Dolecki that was hand carried, 6 physically delivered, to Ms. de Leon on 7 March 18th, 2002. 8 A What did the letter state? 9 Q The letter said this --- it's in 10 the record. 11 A Thank you. 12 Q I can get a copy of it. We can 13 get a copy. It said, essentially --- 14 this is the gist of it. One, Mr. 15 Dolecki was telling Ms. de Leon, I'm 16 suspending you; all right? One. 17 A Is this the same letter --- 18 Q Two --- 19 A --- I testified to earlier? 20 Q I'm not sure whether you 21 testified to that. 22 A Mind if I look? 23 Q Go right ahead. 24 A Was it the three-day or the 25 five-day suspension letter?</p>	<p>1 moment to review it. And he directed 2 her to undergo an independent medical 3 exam or a psychiatric examination. 4 A Yes, I have seen this letter. 5 Q Right. Okay. And also, as you 6 would note there, the reason why she 7 was being suspended is for medical 8 reasons. That's why ---. 9 A Sure. 10 Q It's a medical reason. That 11 particular letter was delivered by Mr. 12 Heller. Did you attend the meeting in 13 which --- at which, I should say, Mr. 14 Heller delivered that letter to Ms. de 15 Leon? 16 A Quite possibly, but I don't 17 recall. I'll testify that probably, 18 but I'm not 100 percent sure. 19 Q Okay. Well, then let me ask you 20 a further question. At that meeting 21 which you say you possibly could have 22 attended ---. 23 A Yeah. 24 Q And let me ask you another 25 question. At that meeting at which you</p>

<p>Page 195</p> <p>1 Q Right. 2 A Okay. 3 Q March 18th. 4 A Sure. 5 Q 2002. 6 A Yes, yes. 7 Q All right. Now, Ms. de Leon, 8 her doctor, Dr. McFadden, determined 9 that she was able to return to work, 10 and that determination was made as of 11 May 3rd, 2002. Have you seen that 12 determination, that letter by which Dr. 13 McFadden made that determination to 14 return Ms. de Leon to work finding that 15 she was able ---? 16 A I would have had to at some 17 point along the line. Do I remember 18 specifically? No. But yeah, I would 19 have been aware of it. 20 Q And that March 28th, 2002, Ms. 21 de Leon did, in fact, receive a signed 22 copy of that negative evaluation? 23 A I'll take your word for it. 24 Q My question is why wasn't an 25 evaluation issued to her before March</p>	<p>Page 196</p> <p>1 Just what I said. I mean, the 2 best I can recollect, it was posed as 3 an option for Mrs. de Leon. That's 4 about as best as I can recollect. 5 Q But you do recall that he asked 6 for her resignation; right? 7 ATTORNEY HEATH: 8 Objection to form. 9 BY ATTORNEY NICHOLS: 10 Q You do recall that? 11 A He posed her resignation would 12 be accepted as an option. Yes, I do 13 recall that. 14 Q All right. Now, did you either 15 discuss with Mr. Heller and/or Mr. 16 Dolacki whether or not they should 17 consult with Dr. Mercatoris regarding 18 the letter that was sent? 19 A Could your repeat that one more 20 time? I know what you're trying to --- 21 22 Q You testified that you were 23 aware of this letter which came from 24 Dr. Mercatoris. You didn't know the 25 name of her physician, but that was his</p>
<p>Page 197</p> <p>1 Q Right. 2 A Okay. 3 Q March 18th. 4 A Sure. 5 Q 2002. 6 A Yes, yes. 7 Q All right. Now, Ms. de Leon, 8 her doctor, Dr. McFadden, determined 9 that she was able to return to work, 10 and that determination was made as of 11 May 3rd, 2002. Have you seen that 12 determination, that letter by which Dr. 13 McFadden made that determination to 14 return Ms. de Leon to work finding that 15 she was able ---? 16 A I would have had to at some 17 point along the line. Do I remember 18 specifically? No. But yeah, I would 19 have been aware of it. 20 Q And that March 28th, 2002, Ms. 21 de Leon did, in fact, receive a signed 22 copy of that negative evaluation? 23 A I'll take your word for it. 24 Q My question is why wasn't an 25 evaluation issued to her before March</p>	<p>Page 198</p> <p>1 Just what I said. I mean, the 2 best I can recollect, it was posed as 3 an option for Mrs. de Leon. That's 4 about as best as I can recollect. 5 Q But you do recall that he asked 6 for her resignation; right? 7 ATTORNEY HEATH: 8 Objection to form. 9 BY ATTORNEY NICHOLS: 10 Q You do recall that? 11 A He posed her resignation would 12 be accepted as an option. Yes, I do 13 recall that. 14 Q All right. Now, did you either 15 discuss with Mr. Heller and/or Mr. 16 Dolacki whether or not they should 17 consult with Dr. Mercatoris regarding 18 the letter that was sent? 19 A Could your repeat that one more 20 time? I know what you're trying to --- 21 22 Q You testified that you were 23 aware of this letter which came from 24 Dr. Mercatoris. You didn't know the 25 name of her physician, but that was his</p>